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CHINA'S AIR DEFENSE IDENTIFICATION ZONE: CONCEPT, ISSUES AT STAKE AND REGIONAL IMPACT

By Alex Calvo

Introduction. News in the Indian-Pacific Ocean Region have been dominated in the past couple of weeks by Beijing's 23 November announcement of an Air Defense Identification Zone (ADIZ) in the East-China Sea.[1] Four aspects are particularly relevant. First, it covers Japan's Senkaku Islands,[2] which China claims under the name Diaoyu. Second, it includes the waters between Japan and Taiwan. Third, it requires aircraft flying through it to provide information, regardless of whether they are China-bound. Fourth, it has been accompanied by renewed speculation about a similar move in the South China Sea.

The official announcement required all "Aircraft flying in the East China Sea Air Defense Identification Zone" to provide "flight plans … maintain the two-way radio communications, and respond in a timely and accurate manner to the identification inquiries", maintain "transponder identification" and "clearly mark their nationalities and the logo of their registration identification", following Chinese instructions. The text also warned that "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." and stated that the ADIZ would come into force that same day.[3]

Commenting on Beijing's move two days later, Andrew S. Erickson (US Naval War College) explained that the Chinese Air Force "soon conducted its first patrol in the zone, with two large reconnaissance aircraft monitoring the area, early warning aircraft supporting and fighters providing cover", adding that "despite boilerplate disclaimers to the contrary, Beijing's action appears targeted precisely at stoking tension between China and Japan, and putting pressure on the U.S.-Japan alliance". Erickson believes that "particularly problematic is the fact that official Chinese statements imply that Beijing intends to use military force if necessary to ensure that all aircraft comply with Beijing's instructions within its declared ADIZ", stressing that "this is an unrealistic expectation, as an ADIZ is not synonymous with national airspace".[4] Professor Tomohiko Taniguchi, senior adviser to Japanese Prime Minister Shinzo Abe, considered Beijing's move to lead to "a whole new game", and stressed an aspect of China's ADIZ which has attracted much criticism, namely that in contrast with other such zones planes traversing them but not heading to

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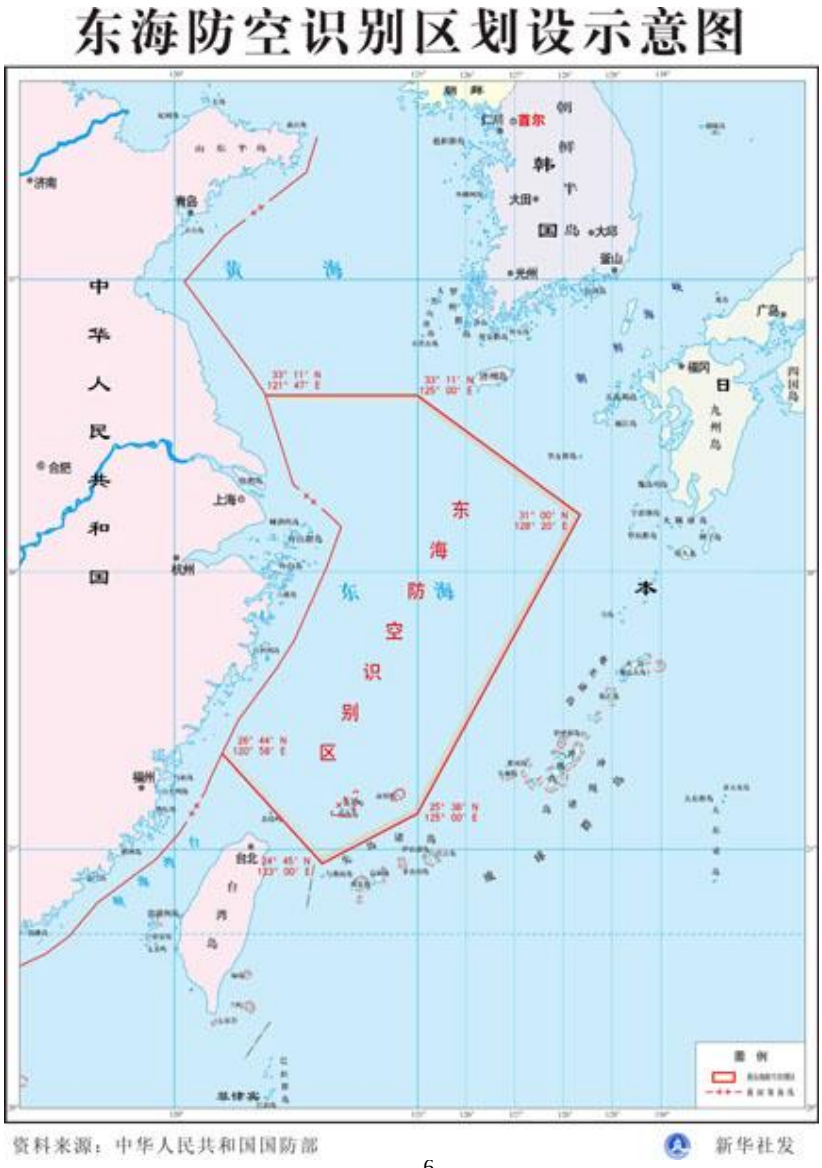
1 "Announcement of the Aircraft Identification Rules for the East China Sea Air Defense Identification Zone of the P.R.C.", *Xinhua*, 23 November 2013, available from http://news.xinhuanet.com/english/china/2013-11/23/c_132911634.htm

2 The precise limits are "the area enclosed by China's outer limit of the territorial sea and the following six points: 33º11'N (North Latitude) and 121º47'E (East Longitude), 33º11'N and 125º00'E, 31º00'N and 128º20'E, 25º38'N and 125º00'E, 24º45'N and 123º00'E, 26º44'N and 120º58'E." "Statement by the Government of the People's Republic of China on Establishing the East China Sea Air Defense Identification Zone" *Xinhua*, 23 November 2013, available from http://news.xinhuanet.com/english/china/2013-11/23/c_132911634.htm

3 "Announcement of the Aircraft Identification Rules for the East China Sea Air Defense Identification Zone of the P.R.C.", *Xinhua*, , 23 November 2013, available from http://news.xinhuanet.com/english/china/2013-11/23/c_132911634.htm

4 Andrew S. Erickson "Watch This Space: China's New Air Defense Zone ", *China Real Time*, Wall Street Journal blogs, 25 November 2013, available at http://blogs.wsj.com/chinarealtime/2013/11/25/watch-this-space-chinas-new-air-defense-zone/

the country in question are nevertheless required to identify themselves. Taniguchi noted that “no nation has ever attempted” to do so.[5]



Map accompanying the announcement.[6]

While reaction to the ADIZ by China's neighbors has generally been negative, no clear consensus has emerged on how to respond. Once again, we have been witness to the very different ways in which China and other countries see developments in the region. What for the Chinese is essentially a defensive measure, not directed against anyone in particular, and covering territories under Chinese sovereignty since times immemorial, is perceived by others as yet another small step in a relentless expansion which may end up unleashing a conflict of incalculable consequences. These very different perceptions are one of the factors that may make it difficult to reach some sort of

5 Interview with Professor Taniguchi. “China Air Zone Move a `Serious Challenge”’, *Bloomberg TV*, 28 November 2013, available at http://www.bloomberg.com/video/china-air-zone-move-a-serious-challenge-Q7TeaXd3SM2vXKKN8H4eOA.html

6 Map taken from “Announcement of the Aircraft Identification Rules for the East China Sea Air Defense Identification Zone of the P.R.C.”, *Xinhua*, , 23 November 2013, available from http://news.xinhuanet.com/english/china/2013-11/23/c_132911634.htm

diplomatic settlement, although there are other forces pushing in the opposite direction. The purpose of this paper is to describe China's ADIZ, summarize the role and characteristics of Air Defense Identification Zones, examine the response by some the main actors involved (Russia, often forgotten, and Taiwan, strangely left out of many reports, included), the opinions of some experts, and place this development in a wider context, looking at the future courses of action that the main powers in the Indian-Pacific Region may follow.

Map of the overlapping Chinese and Japanese air identification zones, containing also the location of the disputed undersea gas fields.[7]

What is an ADIZ? A brief overview of civil aviation law. Air Defense Identification Zones (ADIZ) are not a Chinese invention. Before considering Beijing's move it is necessary to examine in some detail their characteristics and place within public international law, as well as some of the existing such zones. This must be preceded by a brief introduction to civil aviation law and public international law concerning airspace.

7 Map taken from "Viewpoints: China air zone tensions", *BBC*, 28 November 2013, available at http://www.bbc.co.uk/news/world-asia-25116119

After the invention of aircraft and the initial development of air travel, an attempt was made to regulate the phenomenon by means of treaties, meaning that this is an area of the law where this is the most significant source of rules. The most important treaty is the 1944 Chicago Convention on International Civil Aviation, which not only provided the "essential framework" but "established the International Civil Aviation Organization (ICAO)", a UN-specialized agency headquartered in Montreal.[8] The Convention currently has 190 parties.[9] A key aspect of the convention, whose significance may become apparent later when discussing Washington's and Taipei's reaction to Beijing's ADIZ, is the distinction between "state aircraft" and "civil aircraft." The Convention only regulates the latter, while defining the former in its Article 3.b as "aircraft used in military, customs and police services".[10] Before that, the Convention makes it clear in its first article that "every State has exclusive sovereignty over the airspace above its territory", and defines that territory in Article 2 as "the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection, or mandate of such State". The convention also restricts the operation of state aircraft, in comparison with civilian aircraft, stating that "No state aircraft of a contracting State shall fly over the territory of another State or land thereon without authorization" (Article 3.c).[11]

The Chicago Convention tries to strike a balance between national sovereignty and the right to self-defense on the one hand, and freedom of aerial navigation and the safety of civilians in the other, when in its Article 3.bis it states that "The contracting States recognize that every State must refrain from resorting to the use of weapons against civil aircraft in flight and that, in case of interception, the lives of persons on board and the safety of aircraft must not be endangered. This provision shall not be interpreted as modifying in any way the rights and obligations of States set forth in the Charter of the United Nations". Art. 3.b recognizes that a party to the Convention "in the exercise of its sovereignty, is entitled to require the landing at some designated airport of a civil aircraft flying above its territory without authority or if there are reasonable grounds to conclude that it is being used for any purpose inconsistent with the aims of this Convention" while restricting the means of doing this to those "appropriate" and "consistent with relevant rules of international law". Furthermore, it lays down a duty to publish any resulting regulations.[12] A problem of course is that it is rather difficult to intercept an aircraft without using or at least risking lethal force if it persists in disregarding the instructions received.

Concerning the tension between national sovereignty and the demands of widespread air travel, the Convention requires authorization by the concerned state before regular scheduled flights can take place. It also allows parties "for reasons of military necessity or public safety" to "restrict or prohibit uniformly the aircraft of other States from flying over certain areas of its territory" (Article 9-a), an important proviso being that such exclusions must affect all countries equally. Also, the resulting excluded areas must be of a "reasonable extent and location as not to interfere

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8 Anthony Aust, *Handbook of International Law*, (Cambridge: Cambridge University Press, 2005), p. 345.

9 "CONVENTION ON INTERNATIONAL CIVIL AVIATION SIGNED AT CHICAGO ON 7 DECEMBER 1944 ", website of the International Civil Aviation Organization, available at http://www.icao.int/publications/Documents/chicago.pdf

10 "Convention on International Civil Aviation", Ninth Edition, 2006, website of the International Civil Aviation Organization, available at http://www.icao.int/publications/Documents/7300_cons.pdf

11 "Convention on International Civil Aviation", Ninth Edition, 2006, website of the International Civil Aviation Organization, available at http://www.icao.int/publications/Documents/7300_cons.pdf

12 "Convention on International Civil Aviation", Ninth Edition, 2006, website of the International Civil Aviation Organization, available at http://www.icao.int/publications/Documents/7300_cons.pdf

unnecessarily with air navigation".[13] The Convention does not explicitly refer to ADIZs, which are a later development.

Without going into further details concerning the above, we can note that when not over any country's territory or territorial sea, aircraft are thus free to fly wherever they want as a general rule. This does not mean that there are no international regulations, with Article 12 of the Convention and its annexes containing detailed provisions designed to promote safety. We will not go into them, but we do need to note that for these same safety reasons international airspace, that is those portions of the atmosphere not above any state's territory or territorial sea, are divided into flight information regions (FIRs), "for which a state is responsible and with whose aeronautical authorities all foreign civil aircraft are required to co-operate".[14] FIRs can be defined as "areas established for the facilitation of airspace and air traffic management. FIRs generally involve a subjacent State which has undertaken responsibility for providing air traffic control services".[15] The idea behind a FIR is to facilitate navigation, "Some nations, however, purport to require all military aircraft in international airspace within their FIRs to comply with FIR procedures, whether or not they utilize FIR services or intend to enter national airspace. The United States does not recognize the right of a coastal nation to apply its FIR procedures to foreign military aircraft in such circumstances. Accordingly, U.S. military aircraft not intending to enter national airspace need not identify themselves or otherwise comply with FIR procedures established by other nations, unless the United States has specifically agreed to do so".[16]

Sometimes a state, invoking the right to self-defense, may close a portion of international airspace bordering on its territory. The most famous instance is probably the UK's 200 nautical mile maritime exclusion zone around the Falkland Islands in 1982, later turned into a total exclusion zone[17], and finally extended to 12 miles outside Argentina's coast.[18] "The Soviet Union, without protesting the creation of an exclusion zone in principle, advised the British government that it considered the latest statement of policy unlawful, 'because it arbitrarily proclaim[ed] vast expanses of high seas closed to ships and craft of other countries'". Perhaps of greater interest to the issue at

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13 "Convention on International Civil Aviation", Ninth Edition, 2006, website of the International Civil Aviation Organization, available at http://www.icao.int/publications/Documents/7300_cons.pdf

14 Anthony Aust, *Handbook of International Law*, (Cambridge: Cambridge University Press, 2005), p. 348.

15 Ruwantissa Abeyratne "In search of theoretical justification for air defence identification zones", *Journal of Transportation Security*, March 2012, Volume 5, Issue 1, pp 87-94, p. 88, available at http://download.springer.com/static/pdf/20/art%253A10.1007%252Fs12198-011-0083-2.pdf?auth66=1387118989_c8e6875ebf7a22f53f60d7d1ceea54d0&ext=.pdf

16 "AIR FORCE OPERATIONS & THE LAW: A GUIDE FOR AIR, SPACE, AND CYBER FORCES", (Maxwell Air Force Base: The Judge Advocate General's School, 2009), available at http://www.afjag.af.mil/shared/media/document/AFD-100510-059.pdf

17 Which did not mean that London was restricting her Armed Forces to operate within that area, despite the controversy surrounding the sinking of the ARA Belgrano when outside the associated maritime exclusion zone.

18 "With the arrival of the British battle group into the maritime exclusion zone, on 30 April 1982, the British government declared this same area to be a total exclusion zone (TEZ) from which all non-British ships and aircraft were excluded. Most significantly, 'any military or civilian ships or aircraft found within the zone without due authority from the Ministry of Defense in London were to be regarded as hostile and liable to attack by British forces.' Later, on 7 May 1982, following the 4 May Argentine Exocet attack on the British destroyer, HMS Sheffield, the total exclusion zone was extended by Great Britain to twelve miles off the coast of Argentina" James M. Ryan, "SOME PRACTICAL ADVICE FOR A JOINT FORCE COMMANDER CONTEMPLATING THE USE OF BLOCKADE, VISITAND SEARCH, MARITIME INTERCEPTION OPERATIONS, MARITIME EXCLUSION ZONES, CORDON SANITAIRE, AND MARITIME WARNING ZONES DURING TIMES OF

18 INTERNATIONAL ARMED CONFLICT", paper submitted to the US Naval War College, 8 February 2009, p. 19, available at www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA378469

stake is the fact that "After the Argentine forces on the Falkland Islands had surrendered, Great Britain lifted the Total Exclusion Zone on July 22,1982), but, at the same time, asked the Argentine Government (via the Swiss Government) not to allow its military aircraft or warships within a zone measuring 150 sea miles radius around the Falkland Islands. Similarly Argentina was warned not to allow her civil aircraft and shipping within that zone without the prior agreement of the British Government".[19]

It is also possible for a state to temporarily restrict the use of a portion of international airspace while conducting military drills in international waters. This is done by declaring a "safety zone" and issuing "general warnings to shipping and aircraft not to enter when the activity is being carried out". Other states tend to comply, as long as "they are not too extensive or prolonged".[20]

We should note, however, that there are different interpretations of the right by non-coastal states to conduct military activities in a country's EEZ.[21] For our purposes, it is particularly important to remember that China has persistently insisted that such right does not exist, meaning that drills should be authorized by Beijing.[22] This has not prevented countries like the US or South Korea from carrying them out and insisting publicly that they intend to keep doing so,[23] although sometimes they seem to have restricted the assets deployed or moved drills from the Yellow Sea to the Sea of Japan.[24] These differing interpretations of the rights of coastal states in their EEZs have led Mark J. Valencia (National Institute for South China Sea Studies, Haikou, China) to warn that "Unless some understanding and accommodation are reached regarding various 'red lines,' serious international incidents are likely to increase in frequency and intensity", adding that "The U.S. should consider taking the lead in negotiating a set of voluntary guidelines regarding foreign military activities in EEZs that would be conducive to a stable and secure maritime environment in

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19 L. F. E. Goldie "Maritime War Zones and Exclusion Zones" in Horace B. Robertson, editor, *The Law of Naval Operations*, (Newport: US Naval War College, 1991), p. 173-4, available at https://www.usnwc.edu/getattachment/ac93a6c1-825a-4b7e-8088-3e7977179c3e/Maritime-War-Zones---Exclusion-Zones.aspx

20 Anthony Aust, *Handbook of International Law*, (Cambridge: Cambridge University Press, 2005), p. 348.

21 For a comparison of US and Chinese views, and some critical commentary on both, see Erik Francx "American and Chinese views on navigational rights of warships", *Chinese Journal of International Law*, (2011) 10 (1): 187-206, available at http://chinesejil.oxfordjournals.org/content/10/1/187.full.pdf+html

22 For a summary of the main reasons why China opposes foreign military activities near her shores, see "Why China opposes US-South Korean military exercises in the Yellow Sea", *People's Daily*, 16 July 2010, available at http://english.peopledaily.com.cn/90001/90780/91342/7069743.html

23 "At a conference early in December 2010, titled "Globalization and the Law of the Sea" and jointly organized by the Korea Maritime Institute (Seoul, South Korea), the Centre for Oceans Law and Policy (COLP) (Virginia, United States) and the Netherlands Institute for the Law of the Sea (Utrecht, The Netherlands), the opening statement of John Norton Moore, Director of COLP, focused on the absolute essential nature of the freedom of navigation of military vessels in the EEZ. In his address to the conference, Vice Admiral James W. Houck, US Navy Judge Advocate General, dwelt on what he called the excessive maritime claims of some countries especially with respect to the EEZ. By treating this zone rather as territorial sea, some States hamper or simply want to exclude military operations, exercises and activities based on security or environmental considerations. He emphasized the continued intention of the United States to challenge such excessive claims as to the future" Erik Francx "American and Chinese views on navigational rights of warships", *Chinese Journal of International Law*, (2011) 10 (1): 187-206, p. 192, available at http://chinesejil.oxfordjournals.org/content/10/1/187.full.pdf+html

24 "Washington and Seoul will launch a military drill on Sunday targeting Pyongyang in the Sea of Japan, delaying a similar move in the Yellow Sea after opposition from Beijing over the joint exercise" Li Xiaokun and Ai Yang"US-ROK drill in Sea of Japan", *China Daily*, 21 July 2010, available at http://www.chinadaily.com.cn/cndy/2010-07/21/content_11027704.htm

Asia".[25] Finally, we can note that a "no fly zone" may be declared as a means of waging limited war or carrying out humanitarian intervention, in which case a country or coalition of states will seek to prevent another from operating aircraft, or military aerial assets in particular, over its national territory or part thereof. This is not fully devoid of controversy, since "The Charter of the United Nations, in Article 2(4), prohibits the 'threat or use of force against the territorial integrity or political independence' of a member state under most circumstances, and many practitioners and observers have wondered whether the establishment of a no-fly zone would constitute a violation of this prohibition."[26]

What we have said about different views of the rights of coastal states in their Exclusive Economic Zones is yet another reminder of the legal clash which constitutes an essential component of the complex situation in East Asia. It is not just countries fighting over where to draw their respective territorial waters or EEZs, within an agreed legal framework. Rather, it is that and much more, the tensions also involving a struggle about the rules themselves. Not just their interpretation and the facts. A study on the rights of warships and coastal states pointed out that US and Chinese "opposing positions … are hard to reconcile at present".[27] This is something that should not come as a surprise. China was alien to the birth and development of international law as we know it. She found herself in the mid XIX Century suddenly dispossessed of her privileged position in East Asia, including the "Tribute System" which was so central to Chinese self-perceptions. In its place, she had to contend with a whole new sets of rules, culturally alien, and due to power realities interpreted in a clearly unbalanced way. After (almost) unifying, at least on land, within what she considers to be the nation's rightful borders, and following three decades of substantive (even if fragile) economic development, it is no surprise that next step is seen by many Chinese as securing the maritime approaches to the country and regaining the respect of neighbors, which in a global world is not to be taken as restricted to bordering countries. Both goals are connected, and imply a strong view of surrounding waters. As noted by the US Naval War College's James R. Holmes, "Beijing defines offshore waters as 'blue national soil.' If that's more than a catchy phrase, it envisions exercising the absolute territorial sovereignty at sea that governments exercise within their land frontiers".[28]

Going back to aviation law, we can thus note some important points. First of all, the view that the air above a country's territory is an extension of that territory, and therefore subject to national sovereignty.[29] Also the definition of territory as including territorial waters but not a country's EEZ

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25 Mark J. Valencia "Foreign Military Activities in Asian EEZs: Conflict Ahead?", Special Report 27, National Bureau of Asian Research, May 2011, available at http://www.nbr.org/publications/specialreport/pdf/Preview/SR27_EEZs_preview.pdf This summer, Valencia insisted on this, writing that "Sooner rather than later, an agreement will be needed on a set of voluntary guidelines for military and intelligence-gathering activities in foreign exclusive economic zones and on definitions of permitted and prohibited conduct there. These would help avoid unnecessary incidents without banning any activities outright" Mark J. Valencia "China and US must agree on rules for waters in exclusive economic zone", *South China Morning Post*, 31 August 2013, available at http://www.scmp.com/comment/insight-opinion/article/1300695/china-and-us-must-agree-rules-waters-exclusive-economic-zone

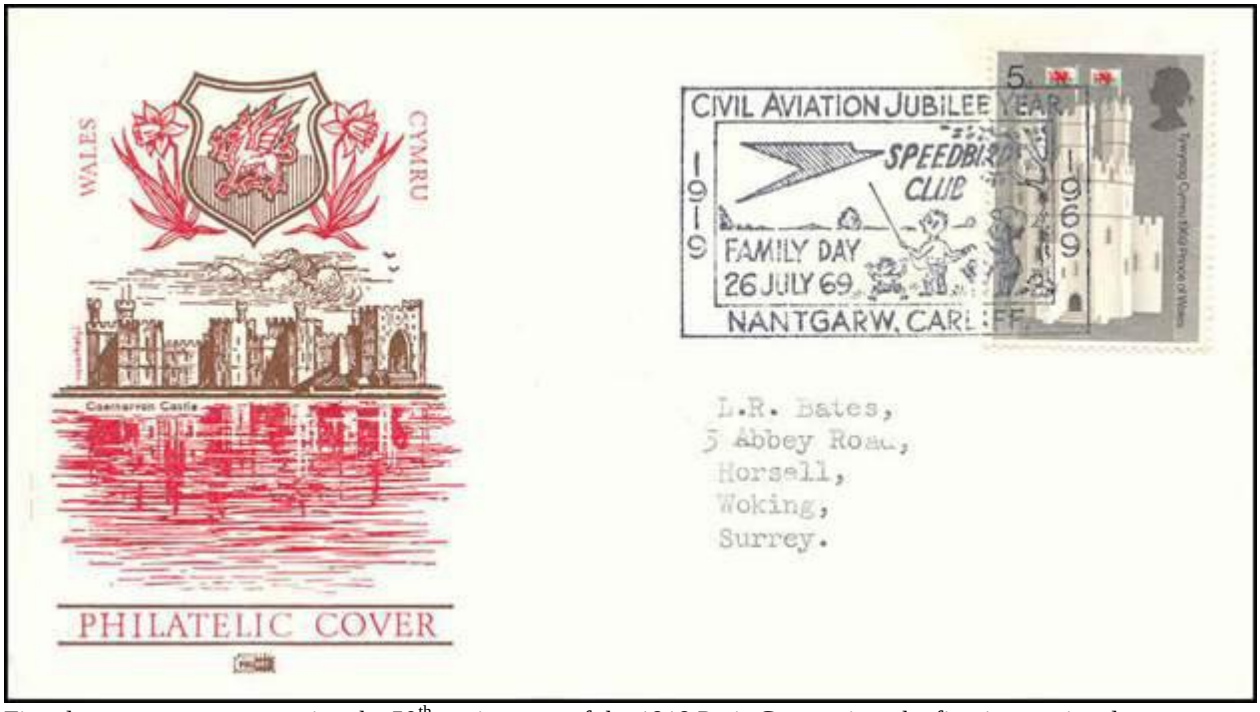
26 For a study of the different legal issues involved, see Jeremiah Gertler, Coordinator, "No-Fly Zones: Strategic, Operational, and Legal Considerations for Congress", Congressional Research Service, 18 March 2011, available at http://www.fas.org/sgp/crs/natsec/R41701.pdf

27 Erik Francx "American and Chinese views on navigational rights of warships", *Chinese Journal of International Law*, (2011) 10 (1): 187-206, available at http://chinesejil.oxfordjournals.org/content/10/1/187.full.pdf+html

28 James R. Holmes, "The Commons: Beijing's 'Blue National Soil'", *The Diplomat*, 3 January 2013, available at http://thediplomat.com/the-naval-diplomat/2013/01/03/a-threat-to-the-commons-blue-national-soil/

29 Already clear in the 1919 Paris Convention, whose article 1 states that "The High Contracting Parties recognize that every Power has complete and exclusive sovereignty over the air space above its territory. For the purpose of the

(Economic Exclusive Zone), a concept born after the Chicago Convention. Third, the different regime applicable to "civilian" and "state" aircraft, and the definition of the latter to include not only military assets but also those in the service of a government in law-enforcement duties.[30] Finally, the fact that national sovereignty is meant to be compatible with freedom of aerial navigation, subject to exceptions on account on national security and that international law restricts the means through which a country may regulate its airspace, with the lives of civilians a paramount consideration.



First day cover commemorating the 50th anniversary of the 1919 Paris Convention, the first international treaty to regulate civil aviation.[31]

The Chicago Convention prohibits the use of force when it comes to pushing an aircraft to land, however this ban is qualified, the text (Article 3 bis a)) saying that "this provision shall not be interpreted as modifying in any way the rights and obligations of States set forth in the Charter of the United Nations".[32] International lawyers have interpreted this as an "oblique reference to the inherent right of a state to use force in self-defense, as confirmed by Article 51 of the [UN] Charter", arguing that "in truly exceptional circumstances, a state would be entitled to shoot down a civil aircraft if that is the only way to avoid an anticipated greater loss of life". An example would be the use of a hijacked airliner as a weapon, as in the 9/11 attacks. In addition, commentators have

present Convention, the territory of a State shall be understood as including the national territory, both that of the mother country and of the colonies, and the territorial waters adjacent thereto", "Convention Relating to the Regulation of Aerial Navigation Signed at Paris, October 13, 1919 (Paris Convention)", , available at http://library.arcticportal.org/1580/1/1919_Paris_conevention.pdf

30 Something to remember in East Asia, given the significant role of coastguards and other state agencies in the dispute over contested territories.

31 Picture taken from "THE POSTAL HISTORY OF ICAO. The 1919 Paris Convention: The starting point for the regulation of air navigation", website of the International Civil Aviation Organization, available at http://www.icao.int/secretariat/PostalHistory/1919_the_paris_convention.htm

32 "Convention on International Civil Aviation", Ninth Edition, 2006, website of the International Civil Aviation Organization, available at http://www.icao.int/publications/Documents/7300_cons.pdf

noted that "There is strong support for the view that this provision is merely declarative of customary international law" and that, furthermore, "The right of self-defense, however, is strictly limited by the principles of necessity and proportionality, and every reasonable precaution must be exhausted in order to avoid the loss of life".[33] Concerning the possibility of shooting down civil aircraft transporting drugs, some countries in Central America pressed for this in the negotiations leading to the protocol incorporating Article 3 bis into the Chicago Convention. Although this was rejected, Peru shot one down in 2001[34], in a widely-publicized incident,[35][36] and Brazil passed a law in 2004 providing domestic legal cover to do so.[37] Other countries, such as Bolivia[38] and Venezuela,[39] have also announced or passed legislation to provide for this. From an East-Asian perspective, this is a reminder of the difficulty of stopping an aircraft that refuses, for whatever reason, to land or change course. Thus, while at sea, in areas like the waters surrounding the Senkaku Islands, ships have often clashed and used non-lethal weapons like water cannons, with both sides employing a limited and managed degree of force, it is difficult to translate those policies into the air, into the "third dimension of warfare".[40] The scope for lethal incidents and the resulting escalation is thus much greater when we are no longer just talking about two-dimensional borders at sea. On the other hand, the growing role of drones could balance this, since their downing does not

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33 Phillip A. Johnson "Shooting Down Drug Traffickers", in Michael N. Schmitt, editor, *Liber Amicorum Professor Jack Grunawalt*, (: Naval War College Press, 1998), p. 84, available at https://ia601209.us.archive.org/5/items/lawofmilitaryope72grun/lawofmilitaryope72grun.pdf

34 The plane was found not to be carrying drugs but missionaries. Natalia Tarnawiecki and Sebastian Rotella "2 Killed as Missionary Plane Is Shot Down in Peru", *Los Angeles Times*, 21 April 2001, available at http://articles.latimes.com/2001/apr/21/news/mn-53816

35 In addition to the death of US missionaries, the cooperation between US and Peruvian authorities in the latter's policy of shooting down drug-carrying planes contributed to the controversy, and led to reports on previous instances of downing of suspected aircraft. "As early as 1994, a memo from U.S. State Department lawyers warned about the danger of downing civilian planes suspected of carrying narcotics. The lawyers wrote that shooting down civilian aircraft would violate international law. They urged government policymakers not to participate in Peru's anti-aircraft war. Their warnings went unheeded; U.S. personnel took part in a counternarcotics arrangement with Peru" , "Policies Inconsistent on Shooting Suspected Drug Planes", *The International Consortium of Investigative Journalists*, 12 July 2001, available at http://www.icij.org/project/us-aid-latin-america/policies-inconsistent-shooting-suspected-drug-planes

36 See "A Review of United States Assistance to Peruvian Counter-Drug Air Interdiction Efforts and the Shootdown of a Civilian Aircraft on April 20, 2001", Report of the Select Commitee on Intelligence, United States Senate, October 2001, available at http://www.fas.org/irp/congress/2001_rpt/peru_report.pdf and "UNITED STATES ASSISTANCE TO COUNTRIES THAT SHOOT DOWN CIVIL AIRCRAFT INVOLVED IN DRUG TRAFFICKING: MEMORANDUM FOR JAMIE S. GORELICK DEPUTY ATTORNEY GENERAL", website of the US Department of Justice, 14 July 1994, available at http://www.justice.gov/olc/shootdow.htm Additional primary sources can be found at Michael L. Evans, editor, "Shootdown in Peru: The Secret U.S. Debate Over Intelligence Sharing with Peru and Colombia", National Security Archive Electronic Briefing Book No. 44, *National Security Archive*, George Washington University, 23 April 2001, available at http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB44/

37 Anthony Aust, *Handbook of International Law*, (Cambridge: Cambridge University Press, 2005), p. 352.

38 Tracey Knott "Bolivia Finalizing Shoot-down Law to Combat Drug Flights", *InSight Crime: Organized Crime in the Americas*, 28 August 2012, available at http://www.insightcrime.org/news-briefs/bolivia-shoot-down-law-drug-flights

39 Geoffrey Ramsey "Venezuela to Adopt 'Shoot-Down' Policy for Suspected Drug Flight", *InSight Crime: Organized Crime in the Americas*, 23 May 2012, available at http://www.insightcrime.org/news-briefs/venezuela-to-adopt-shoot-down-policy-for-suspected-drug-flights

40 For a discussion of the potential destabilizing effect of the employment of aircraft in putting into question Japan's actual control over the Senkaku Islands, see Alex Calvo, "The third dimension of warfare and tactical stability in the Senkaku Islands", *Birmingham "'on War": The blog of the postgraduate students at the Centre for War Studies, University of Birmingham*, 09 January 2013, Birmingham University, available at http://warstudies.wordpress.com/2013/01/09/the-third-dimension-of-warfare-and-tactical-stability-in-the-senkaku-islands/

imply loss of life and therefore while raising tensions it may not escalate matters to the degree that the capture, injury, or death of a pilot or a crew could.[41]

Let us now turn our attention to the origins of the ADIZs. We have earlier mentioned that for navigation and safety purposes, the airspace above international waters is divided into flight information regions (FIRs). During the Cold War, this was considered to be insufficient, and both the United States and the Soviet Union set up ADIZs "to ensure they were not surprised by sudden incursions into their national airspaces". We could basically define an ADIZ as "A zone that provides an early warning system to help a country detect possible incursions into its sovereign airspace".[42]

The practice spread, and nowadays a number of countries have ADIZ, including "US, Canada, Russia, Japan, South Korea, Taiwan and Vietnam",[43] in addition to "Norway and the United Kingdom, India, Pakistan and Canada", among others, with the US having four ("Contiguous US ADIZ; Alaska ADIZ; Guam ADIZ; and Hawaii ADIZ").[44] In the heydays of the Cold War, in "the 1950s and 1960s", a number of "coastal states established many ADIZs in the airspace over the oceans to help protect themselves from unwanted intruders and to warn of potential nuclear strikes". More recently, "the heightened concerns of states about threats from the air since September 11, 2001, and the recent resurgence of major military powers" have prompted renewed interest in them.[45] At a media conference following China's ADIZ announcement, Defense Spokesman Yang Yujun said that "Since the 1950s, more than 20 countries including some major countries and China's neighboring countries have successively established Air Defense Identification Zones".[46]

Although not explicitly regulated in International Law, a certain practice has emerged. They are not declared following any formal procedure, rather countries simply announce them, providing a set of geographical coordinates. Even after an ADIZ has been set up, the area is still considered to be part of international airspace.[47] Thus, although "there is no overwhelming evidence, either from a scholastic or legislative perspective that lends legal legitimacy to the establishment of ADIZs, such a concept has never been challenged as being inconsistent with existing law", with "no recorded

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41 Alex Calvo "Robot Wars in the Pacific?", *The Tokyo Diplomat*, 30 September 2013, Shingetsu News Agency, available at http://www.shingetsunewsagency.com/SNA/News/Entries/2013/9/30_Robot_Wars_in_the_Pacific.html

42 Demetri Sevastopulo "Q&A: What is an air defence identification zone?", *Financial Times*, 29 November 2013, available at http://www.ft.com/cms/s/0/26cf55ce-58da-11e3-a7cb-00144feabdc0.html?siteedition=intl#axzz2n8TGD3xK

43 Demetri Sevastopulo "Q&A: What is an air defence identification zone?", *Financial Times*, 29 November 2013, available at http://www.ft.com/cms/s/0/26cf55ce-58da-11e3-a7cb-00144feabdc0.html?siteedition=intl#axzz2n8TGD3xK

44 Ruwantissa Abeyratne "In search of theoretical justification for air defence identification zones", *Journal of Transportation Security*, March 2012, Volume 5, Issue 1, pp 87-94, p. 87, available at http://download.springer.com/static/pdf/20/art%253A10.1007%252Fs12198-011-0083-2.pdf?auth66=1387118989_c8e6875ebf7a22f53f60d7d1ceea54d0&ext=.pdf

45 Peter A. Dutton "Caelum Liberum: Air Defense Identification Zones outside Sovereign Airspace", *The American Journal of International Law*, Vol. 103, No. 4 (Oct., 2009), American Society of International Law, pp. 691-709, p. 691, available at http://www.jstor.org/stable/20617039

46 Andrew S. Erickson "Defense Spokesman Yang Yujun's Response to Questions on the Establishment of The East China Sea Air Defense Identification Zone", *Andrew S. Erickson: China Analysis from Original Sources*, 23 November 2013, available at http://www.andrewerickson.com/2013/11/defense-spokesman-yang-yujuns-response-to-questions-on-the-establishment-of-the-east-china-sea-air-defense-identification-zone/

47 Demetri Sevastopulo "Q&A: What is an air defence identification zone?", *Financial Times*, 29 November 2013, available at http://www.ft.com/cms/s/0/26cf55ce-58da-11e3-a7cb-00144feabdc0.html?siteedition=intl#axzz2n8TGD3xK

instance of protest against the establishment of ADIZs" before China's. As an explanation for this, Ruwantissa Abeyratne considers that "This might well be because the message of aviation resonates peace and security of society at whatever cost".[48]As a result, we can say that they are part of the international landscape, their ultimate theoretical justification being "the precautionary principle which asserts that the absence of empirical or scientific evidence should not preclude States from taking action to prevent a harm before it occurs"[49], a view that may find its philosophical and legal roots not only in the Western, but also in the Chinese intellectual tradition.[50] With regard to this view of the ultimate justification for ADIZs, we can note how it is the extent (covering territories claimed or administered by other countries), the manner (sudden and without general consultations), and the alleged intent, in addition to the rule that aircraft not bound for China should also provide flight plans, which have led to criticism against China, not the establishment of the EEZ itself. Among those stressing these points, not the setting up of the ADIZ in itself, we can find Rory Metcalf, who wrote an article on "What's Wrong With China's Air Defence Identification Zone (And What's Not) " saying that "If China's new zone did not include disputed maritime territory, if its requirements for compliance applied only to aircraft heading into Chinese airspace, and if neighbours like Japan and South Korea had been consulted ahead of the announcement, then there would be little or nothing for others to object to. Indeed, it could have been part of a wider strategy of cooperation to reduce maritime security risks in North Asia".[51] Andrew S. Erickson supported this view, re-posting this article in his blog and adding that "there is considerable concern among foreign observers about how China has (and how it has not) gone about the announcement and explanation of its ADIZ. Rory Metcalf cuts right to the heart of this critical distinction". Erickson dismisses the view in "Recent Chinese writings" emphasizing "opposition to double standards and" suggesting "that Beijing is being opposed just because it announced an ADIZ per se".[52] On the other hand some non-Chinese observers have tended to support or at least partly agree with such Chinese views. Justin Bronk (Royal United Services Institute), for example, wrote that "China's actions do not seem especially unreasonable if one considers that all its neighbours in the region have put ADIZs in place to cover territories to which they attach significant national interest.

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48 Ruwantissa Abeyratne "In search of theoretical justification for air defence identification zones", *Journal of Transportation Security*, March 2012, Volume 5, Issue 1, pp 87-94, p. 94, available at http://download.springer.com/static/pdf/20/art%253A10.1007%252Fs12198-011-0083-2.pdf?auth66=1387118989_c8e6875ebf7a22f53f60d7d1ceea54d0&ext=.pdf

49 Ruwantissa Abeyratne "In search of theoretical justification for air defence identification zones", *Journal of Transportation Security*, March 2012, Volume 5, Issue 1, pp 87-94, p. 89, available at http://download.springer.com/static/pdf/20/art%253A10.1007%252Fs12198-011-0083-2.pdf?auth66=1387118989_c8e6875ebf7a22f53f60d7d1ceea54d0&ext=.pdf

50 "As their recorded efforts to formulate rules for using coercion suggest, these writers accepted the premise that the state must monopolize force in order to maintain a stable political structure. But like late classical Western just war theorists,' the Chinese thinkers whose works I interpret here qualified their agreement that force could have a legitimate place in government, warning that rulers must never resort to violence for capricious cause or personal gain. Moreover, some Chinese writers declared as eloquently as their Western counterparts that decisions about war and punishments must be based on laws derived from natural patterns. By comparing classical Chinese political theory with Western concepts of natural law and the just war, this article adds a new perspective to current critiques of a certain conventional view of early Chinese legal culture" Karen Turner "War, Punishment, and The Law of Nature in Early Chinese Concepts of The State", *Harvard Journal of Asiatic Studies*, Vol. 53, No. 2 (Dec., 1993), pp. 285-324, p. 286, available at http://www.jstor.org/stable/2719452

51 Rory Medcalf "What's Wrong With China's Air Defence Identification Zone (And What's Not)", *The Interpreter*, 27 November 2013, available at http://www.lowyinterpreter.org/post/2013/11/27/Whats-wrong-with-Chinas-Air-Defence-Identification-Zone-%28and-whats-not%29.aspx

52 Andrew S. Erickson "What's Wrong With China's Air Defence Identification Zone (And What's Not)", *Andrew S. Erickson: China Analysis from Original Sources*, 27 November 2013, available at http://www.andrewerickson.com/2013/11/whats-wrong-with-chinas-air-defence-identification-zone-and-whats-not/

Viewed in this light, Chinese claims that international protestations over the zone are hypocritical do have a ring of truth to them".[53]

In contrast with the rules announced by Beijing, the traditional view is that ADIZs only imply a duty to provide flight plans by incoming aircraft, not by those simply traversing them. This is clearly explained in the US Navy Commander's Handbook on the Law of Naval Operations, which states that "The United States does not recognize the right of a coastal nation to apply its ADIZ procedures to foreign aircraft not intending to enter national airspace nor does the United States apply its ADIZ procedures to foreign aircraft not intending to enter U.S. airspace. Accordingly, U.S. military aircraft not intending to enter national airspace should not identify themselves or otherwise comply with ADIZ procedures established by other nations, unless the United States has specifically agreed to do so".[54]

Some observers have noted the potential impact of the evolution of the law of the sea, and in particular that of the EEZ, on the concept of the ADIZ, although the two are conceptually different, at least in the standard view of international law. Peter A. Dutton (US Naval War College) wrote that "in the decades since the 1950s much has changed in the international law of the sea, raising questions as to whether these legal developments have affected the status of maritime airspace or established new authorities that allow coastal states to regulate foreign aircraft in the airspace beyond the territorial sea in derogation of the overflight freedoms of other states".[55] With regard to this, we may note the possibility that Chinese views on coastal states rights may also end up influencing the figure of the ADIZ, should Beijing succeed in shaping the rules governing the maritime and air approaches to its territory. The end result could be a hybrid between standard international law and Chinese legal concepts, which would reflect the situation on the ground, that of a much more powerful China yet one partly constrained by existing legal regimes and by her neighbors' interests. This should come as no surprise since international law, just like law in general, tends to evolve in accordance with political and social changes. Two alternative scenarios would be either a radical overhaul of international law, reflecting a sino-centric Asia[56] and a de

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53 Justin Bronk "China's Air Defence Identification Zone and its role in Chinese Geo-Strategic Policy", *RUSI Analysis*, Royal United Services Institute, 4 December 2013, available at http://www.rusi.org/analysis/commentary/ref:C529EF792AB902/#.UqfjP-K83wq

54 "THE COMMANDER'S HANDBOOK ON THE LAW OF NAVAL OPERATIONS", Departyment of the Navy Office of the Chief of Naval Operations and Headquarters, US Marine Corps, Department of Homeland Security and US Coast Guard, July 2007, available at http://www.usnwc.edu/getattachment/a9b8e92d-2c8d-4779-9925-0defea93325c/

55 Peter A. Dutton "Caelum Liberum: Air Defense Identification Zones outside Sovereign Airspace", *The American Journal of International Law*, Vol. 103, No. 4 (Oct., 2009), American Society of International Law, pp. 691-709, p. 691, available at http://www.jstor.org/stable/20617039

56 One should be careful with the term "sino-centrism", though. "Sinocentrism can be a useful assumption at times of Chinese strength, when reality more or less matched belief in superiority. But even here one has to examine its exact effect on policymaking. Many believe that sinocentrism had led to a foreign policy of rigidity and inflexibility. But this is not necessarily the case. The Han, Tang, Ming, and Qing all in different periods displayed a flexible and extroverted pattern of foreign relations. Moreover, sinocentrism did not always demand foreign rulers' submission to China as vassals, even during periods of Chinese strength. The Tang, for example, did not insist on Japan's declaration of vassalage. From another perspective, if sinocentrism was indeed such an important motivational force, 'its relatively weak translation into impulses to conquer and physically dominate "inferior" peoples' is puzzling. It is clear that sinocentrism alone sheds little light on Chinese attempts at domination or the lack thereof. Although these examples demonstrate that the importance of sinocentrism in Chinese foreign policy making cannot be overstated, they also show that the effect of sinocentrism on policy varies in different cases and needs to be empirically determined" Zhang Feng "Rethinking the 'Tribute System': Broadening the Conceptual Horizon of Historical East Asian Politics", *Chinese Journal of International Politics*, (2009) 2 (4), p. 545-574, available at http://cjip.oxfordjournals.org/content/2/4/545.full.pdf+html

facto return to the Tribute System,[57] or a Chinese failure to see international law evolve according to her views and interests leading the country to leave some of the existing normative regimes. In connection with this, some observers are warning about the possibility that Beijing may withdraw from UNCLOS if the current international arbitration case launched by the Philippines concludes with a decision against China.[58] An alternative for China, however, would be to simply ignore the ruling and stick to her current strategy.

With regards to the possible evolution of airspace law, it has been noted that "Like the Paris Convention, the Chicago Convention was drafted while the oceans (hence the airspaces) were divided only between territorial waters and high seas".[59] Thus, the birth of EEZs without a corresponding figure in the air could be seen as providing an opening for an evolution of airspace law in a direction which may at least partly satisfy Chinese wishes to see changes in the legal regime applicable to the "commons" in a bid to better ensure her national security. The initial attempts, shortly after UNCLOS was concluded, by countries like Brazil to restrict operations by foreign state aircraft in their EEZs, employing the Chicago Convention as the basis, were unsuccessful,[60] but this does not completely rule out the possibility that a coalition may emerge, led by China, of coastal states pushing for change in this direction. There are two other treaties, apart from the Chicago Convention and UNCLOS, which may provide a basis for coastal states to regulate some activities by aircraft flying in international airspace, the "widely accepted 1972 London Dumping Convention[61] and the related, but less widely accepted, 1996 Protocol to the London Convention"[62], both of which "seek to protect the marine environment from the effects of dumping". However, like UNCLOS, they grant coastal states a restrictive range of powers to

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57 A cautionary tale when referring to the Tribute System is that there is still much work to be done to fully understand its meaning, operation, and evolution, this being a concept often used in a somewhat simplistic manner. For a discussion of some of the meanings and a warning concepting the concept, see Zhang Feng "Rethinking the 'Tribute System': Broadening the Conceptual Horizon of Historical East Asian Politics", *Chinese Journal of International Politics*, (2009) 2 (4), p. 545-574, available at http://cjip.oxfordjournals.org/content/2/4/545.full.pdf+html

58 Ellen Tordesillas "Will China withdraw from UNCLOS if UN court decides in favor of PH?", *Yahoo News*, 10 December 2013, available at http://ph.news.yahoo.com/blogs/the-inbox/china-withdraw-unclos-un-court-decides-favor-ph-153936547.html

59 Peter A. Dutton "Caelum Liberum: Air Defense Identification Zones outside Sovereign Airspace", *The American Journal of International Law*, Vol. 103, No. 4 (Oct., 2009), American Society of International Law, pp. 691-709, p. 692, available at http://www.jstor.org/stable/20617039

60 "Nonetheless, shortly after UNCLOS was concluded, some coastal states attempted to assert that the new EEZ is a zone in which permission is required for military activities, including overflight by the military aircraft of other states. Brazil, for instance, attempted to obtain the agreement of the Legal Committee of the International Civil Aviation Organization to designate the status ofthe airspace over the EEZ as equivalent to national airspace. The committee, however, rejected this effort to use the Chicago Convention as an instrument for redefining the law of the sea as 'flagrantly contradicting the relevant provisions [of UNCLOS] which equate the EEZ . .. with the high seas as regards freedom of overfligh'" Peter A. Dutton "Caelum Liberum: Air Defense Identification Zones outside Sovereign Airspace", *The American Journal of International Law*, Vol. 103, No. 4 (Oct., 2009), American Society of International Law, pp. 691-709, p. 694, available at http://www.jstor.org/stable/20617039

61 "CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTER", website of United Nations, available at http://treaties.un.org/doc/Publication/UNTS/Volume%201046/volume-1046-I-15749-English.pdf

62 "The Protocol, which is meant to eventually replace the 1972 Convention, represents a major change of approach to the question of how to regulate the use of the sea as a depository for waste materials. Rather than stating which materials may not be dumped, it prohibits all dumping, except for possibly acceptable wastes on the so-called 'reverse list', contained in an annex to the Protocol", "Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter", website of the International Maritime Organization, available at http://www.imo.org/About/Conventions/ListOfConventions/Pages/Convention-on-the-Prevention-of-Marine-Pollution-by-Dumping-of-Wastes-and-Other-Matter.aspx

achieve this goal.[63] The London Protocol bans as a general rule (Art. 1.4.1, defining "dumping") "any deliberate disposal into the sea of wastes or other matter from ... aircraft … at sea",[64] but, as UNCLOS does, exempts state aircraft from this rule, saying (Article 10.4) that "This Protocol shall not apply to those vessels and aircraft entitled to sovereign immunity under international law", although this is qualified with the assertion that "each Contracting Party shall ensure by the adoption of appropriate measures that such vessels and aircraft owned or operated by it act in a manner consistent with the object and purpose of this Protocol and shall inform the Organization accordingly". The qualification means, however, that it is the relevant state itself which is in charge of making sure the Convention is followed, without any role for the coastal state. We must also note that the Protocol only applies (Article 10.1.3) "at sea in areas within which [the coastal state] is entitled to exercise jurisdiction in accordance with international law". Therefore, "like UNCLOS, the London Convention and Protocol provide no basis for a coastal state to exercise legal jurisdiction over foreign state aircraft in the airspace above the EEZ", and Dutton concludes that "for military purposes, freedom of overflight in the airspace above the EEZ remains fundamentally unchanged by international treaty law developments in the second half of the twentieth century"[65]

To conclude this section, we may refer again to a state's inherent right to self-defense, since as we will see next, one of the motivations or explanations for China's move, and more generally for her maritime expansion, is to seek to establish a protective buffer zone around her territory, and in particular around her main population and industry centers. The existence of such a right is not controversial in itself, in particular when we have in mind a conventional cross-border mass attack. The problem comes when we envision lesser forms of resort to armed force, which happen to be much more common than the former. These include many forms, among them support for cross-border insurgents, and "armed infiltration and indirect aggression". As noted by a standard international law textbook, "international practice shows that military aggression increasingly takes the form of gradual infiltration of armed forces and groups of volunteers supported by a foreign government into the territory of another state", in which case "the 'invasion' of the territory of a State does not take place all of a sudden and on a large scale, but over a long period and piecemeal". The problem then is whether self-defense as recognized in international law covers these situations.[66] International law still has not developed a comprehensive framework to deal with sub-conventional conflict. What we find in Asia is a mutual perception that such gradual encroachments are taking place. While, for example, Indians complain about Chinese incursions in the Himalayas, Chinese denounce foreign military activities in their EEZ. The matter is made more complex by the existence of territories claimed by two or more parties. In those cases, the one sending troops (or civilians) into them can and does claim that it is not crossing any border, and accuses the other side of being the trespasser. We may see similar conflicting views of China's ADIZ, a defensive measure for Beijing, yet another small offensive step for her neighbors.

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63 Peter A. Dutton "Caelum Liberum: Air Defense Identification Zones outside Sovereign Airspace", *The American Journal of International Law*, Vol. 103, No. 4 (Oct., 2009), American Society of International Law, pp. 691-709, p. 694, available at http://www.jstor.org/stable/20617039

64 "London Convention 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972, and Resolutions Adopted by the Special Meeting", website of the National Toxics Network, available at http://www.ntn.org.au/cchandbook/library/documents/londonprotocol96.pdf

65 Peter A. Dutton "Caelum Liberum: Air Defense Identification Zones outside Sovereign Airspace", *The American Journal of International Law*, Vol. 103, No. 4 (Oct., 2009), American Society of International Law, pp. 691-709, p. 694, available at http://www.jstor.org/stable/20617039

66 Antonio Cassese, *International Law*, (Oxford: Oxford University Press, 2005), p. 363. For an overview of the issue of self-defense in international law, see p. 354-365 and 371-373.

China's views, motivations, and strategy. Let us now examine the reasons which may have prompted Beijing to declare its East China Sea ADIZ. We may at least cite the following, on the understanding that they are not completely separate goals but that they may overlap to some extent: gaining strategic depth at sea (pushing out potentially hostile military forces from her EEZ), acting in accordance with her territorial claim on the Senkaku Islands, seeking to master the airspace between Taiwan and Japan (and putting a dent on the "strategic quadrangle"), taking another small step forward in her incremental strategy of territorial expansion ("cabbage strategy"), and reacting to domestic pressure (popular and/or military). We will later deal with another possible angle, better protection for her strategic nuclear submarine fleet.

Concerning coastal defense,[67] one of the drivers behind different interpretations of coastal state rights' under UNCLOS is precisely the Chinese perception that military activities near her coast pose a vital threat, even in peace time. In 2010, at an online chat with citizens, Major General Luo Yuan (deputy secretary general with the PLA Academy of Military Sciences) explained why China opposed U.S.-South Korean joint drills in the Yellow Sea, reminding his audience that "in terms of security, Chairman Mao Zedong once said, 'We will never allow others to keep snoring beside our beds'".[68] Protected by ample buffer territories elsewhere, in her land borders, it is foreign navies that currently constitute the single greatest potential threat to China.[69] This sense of vulnerability is grounded, among others, on geography[70] and history. Geographically, China's coast and rivers are home to most of her population and industrial centers.[71] Historically, this is one of two major avenues for foreign invasion and interference[72][73], with the XIX Century exposing Chinese maritime

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67 To gain a historical perspective on this issue a visit to Hong Kong's Museum of Coastal Defense is useful. Website available at http://hk.coastaldefence.museum/en/section1-1.php

68 "Why China opposes US-South Korean military exercises in the Yellow Sea", *People's Daily*, 16 July 2010, available at http://english.peopledaily.com.cn/90001/90780/91342/7069743.html

69 "The greatest military threat to China comes from the U.S. Navy. The Chinese have become highly dependent on seaborne trade and the U.S. Navy is in a position to blockade China's ports if it wished. Should the United States do that, it would cripple China. Therefore, China's primary military interest is to make such a blockade impossible." George Friedman, *The Geopolitics of China: a Great Power Enclosed*, Austin, Stratfor Global Intelligence, 2008, p. 8, available at http://www.stratfor.com/analysis/geopolitics_china

70 "China's most vulnerable point, since the arrival of Europeans in the western Pacific in the mid-19th century, has been its coast. Apart from European encroachments in which commercial interests were backed up by limited force, China suffered its most significant military encounter -- and long and miserable war -- after the Japanese invaded and occupied large parts of eastern China along with Manchuria in the 1930s." George Friedman, *The Geopolitics of China: a Great Power Enclosed*, Austin, Stratfor Global Intelligence, 2008, p. 5, available at http://www.stratfor.com/analysis/geopolitics_china

71 The tension between the coast and the inland regions is one of the cleavages in Chinese history. The post-Mao economic reforms have led to a widening gap, which the authorities may now be seeking to narrow down by promoting the (re)industrialization of some areas of the interior, in a policy which may also be driven by rising labor costs in the coastal regions. Before that, Mao had sought to shift part of industry to more secure, inland regions. Although the reversion to a coastal-oriented economic development policy does not begin until his death and defeat of the Gang of Four, it is Mao's rapproachment with the United States which gives China the room for manouvre to go back to a coastal-oriented development policy without undue danger to her national security. Thus, while ideology may have prevented Mao from moving away from central planning, his pragmatic foreign policy opened the door to it. "Mao's goal was threefold, Marxism aside. First, he wanted to recentralize China — re-establishing Beijing as China's capital and political center. Second, he wanted to end the massive inequality between the coastal region and the rest of China. Third, he wanted to expel the foreigners from China. In short, he wanted to recreate a united Han China." George Friedman, *The Geopolitics of China: a Great Power Enclosed*, Austin, Stratfor Global Intelligence, 2008, available at http://www.stratfor.com/analysis/geopolitics_china

72 George Friedman, *The Geopolitics of China: a Great Power Enclosed*, Austin, Stratfor Global Intelligence, 2008, available at http://www.stratfor.com/analysis/geopolitics_china

73 And China's integration into the world economy has reinforced Beijing's acute awareness to master the maritime approaches to the country "There is a clear strategic shift under way in China on force planning. Historically a

vulnerability,[74] and China remains very much concerned about conventional threats from the sea.[75] [76]Some observers had already publicly demanded China set up an ADIZ as part of her efforts to secure control over her immediate waters. For example in an article last year titled "Legal Solutions for Suppression of Acts Detrimental to China Marine Territory Security", Sheng Hongsheng (Zhejiang Sci-tech University) complained that "In recent years, detrimental acts by foreign States have imposed critical threat to marine territory security of China, such as dozens of islands of China in Nansha regions are occupied unlawfully by other States, and increasing military operations by foreign States in waters and in space above China's economic exclusive zone are prominent as well" and demanded, among other measures that an "Air Defense Identification Zone should be established to suppress flight targeting at China by foreign military aircrafts through space above China's economic exclusive zone".[77] In the run-up to the 2008 Beijing Olympics, Chinese authorities had already considered setting up an ADIZ.[78] It should be noted that, while an EEZ and an ADIZ are different figures in international law, a certain analogy may be drawn, in the sense that in both cases a state exercises a number of rights in an area otherwise not under its sovereignty, doing so in defense of its interests while not questioning the right of passage.[79] Technological developments, extending the range of key weapons systems,[80] and doctrinal developments, such as

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major land power, China is now putting the accent on building long-range maritime power to help underpin geopolitical interests, including winning new allies and safeguarding its energy and economic investments in distant lands." Cesar Chelala "China plays maritime chess", *The Japan Times*, 22 January 2009, available at http://search.japantimes.co.jp/cgi-bin/eo20090122cc.html

74 "Prior to the 19th century, it had not faced enemies capable of posing a naval threat and, as a result, it had little interest in spending large sums of money on building a navy." George Friedman, *The Geopolitics of China: a Great Power Enclosed*, Austin, Stratfor Global Intelligence, 2008, p. 4, available at http://www.stratfor.com/analysis/geopolitics_china

75 Whereas India appears to be more worried about non-state actors, at least in close waters. "Threats to India's coasts, today, are mainly sub-conventional in nature. Terrorist attacks on vital installations located along the coasts such as oil platforms, atomic power plants, naval bases, industrial hubs and cities, causing extensive damage feature as the most potent threat. Smuggling of drugs, arms and explosives via the sea route by criminal groups forms the second set of threats. Criminal groups engaging in these activities not only breach the security of the coast but also network with terrorists and provide logistical support for terror operations. Indian coasts are also vulnerable to illegal inflow of both migrants and refugees from Bangladesh and Sri Lanka, especially along the Odisha and Tamil Nadu coasts. Though such people do not pose a direct security threat, the probability that terror operatives can sneak into the country in the guise of migrants or refugees remains. Finally, numerous fishing boats which venture into the sea each day also pose a security threat as many such fishing boats could be used for smuggling in arms and infiltrators. The situation is aggravated by the fact that checking every one of these tens of thousands of boats for suspicious cargo is almost impossible. " Pushpita Das, "Whither Coastal Security?", *IDSA Comment*, Institute for Defence Studies and Analyses, 26 November 2009, available at http://idsa.in/idsacomments/WhitherCoastalSecurity_pdas_261109?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+IdsaUpdates+%28IDSA+Updates%29 .

76 "the Yellow Sea is the gateway to China's capital region and a vital passage to the heartland of Beijing and Tianjin. In history, foreign invaders repeatedly took the Yellow Sea as an entrance to enter the heartland of Beijing and Tianjin" "Why China opposes US-South Korean military exercises in the Yellow Sea", *People's Daily*, 16 July 2010, available at http://english.peopledaily.com.cn/90001/90780/91342/7069743.html

77 Sheng Hongsheng "Legal Solutions for Suppression of Acts Detrimental to China Marine Territory Security", *Law Science Magazine*, 2012 (1), available at http://en.cnki.com.cn/Article_en/CJFDTOTAL-FXAS201201018.htm

78 Peter A. Dutton "Caelum Liberum: Air Defense Identification Zones outside Sovereign Airspace", *The American Journal of International Law*, Vol. 103, No. 4 (Oct., 2009), American Society of International Law, pp. 691-709, p. 691, available at http://www.jstor.org/stable/20617039

79 Ruwantissa Abeyratne "In search of theoretical justification for air defence identification zones", *Journal of Transportation Security*, March 2012, Volume 5, Issue 1, pp 87-94, p. 88-89, available at http://download.springer.com/static/pdf/20/art%253A10.1007%252Fs12198-011-0083-2.pdf?auth66=1387118989_c8e6875ebf7a22f53f60d7d1ceea54d0&ext=.pdf

80 "The aircraft carrier U.S.S. George Washington dispatched to the Yellow Sea has a combat radius of 600 kilometers and its aircraft has a combat radius as long as 1,000 kilometers. Therefore, the military exercise in the area has posed a

the United States' "Air-Sea Battle" may have also provided added urgency to this perceived need.[81] Writing for China Brief, Harry Kazianis (Center for Strategic & International Studies) called China's ADIZ "a reaction to a reaction", noting that just like the Air-Sea Battle may be designed to counter China's Anti-Access/Area Denial (A2/AD) capabilities, the new zone may be designed against the US concept. Kazianis believes that "Chinese and U.S. military planners are already engaged in a conceptual arms race ".[82]

Gaining information about approaching and nearby operating civilian aircraft may be seen as contributing to China's spacial awareness, while extending that gain to military (or to be more precise state) aircraft would constitute an even greater step forward for Beijing. In a way, securing this maritime belt could be seen from Chinese eyes as a necessary counterpart to the country's opening-up to the world and reliance on foreign trade and investment. Whereas Mao had preferred to close off the country to keep it united, Deng, under pressure to raise living standards, unleashed long-repressed forces that resulted in sky-high economic growth, albeit one heavily reliant on the coastal regions and the SLOCs connecting the country to her export markets and sources of energy and commodities.[83] The stress on command of the sea and airspace, or (to be more accurate at least in the short term) on denying them to hostile forces, may thus be judged as a necessary counterpart from a Chinese national security perspective, the alternative being reverting to a closed economic system, a domestic impossibility. This is why one should be careful not to oversimplify the complex Chinese political landscape with reference to "conservatives" and "modernizers", and also why one should appreciate the multifaceted nature of global economic integration, which on the one hand increases international exchanges and raises the cost of open war, thus making it less likely, while contributing to insecurities or perceptions of insecurity, which may feed tensions and make limited conflicts more prevalent.

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direct security threat to China's heartland and the Bohai Rim Economic Circle. " "Why China opposes US-South Korean military exercises in the Yellow Sea", *People's Daily*, 16 July 2010, available at http://english.peopledaily.com.cn/90001/90780/91342/7069743.html

81 In India, on the other hand, while we can also observe a trend towards greater attention to coastal security, this has been prompted by the 2008 Mumbai swarm attack. "The Mumbai 2008 terror episode not only laid bare the wide gaps in the Indian coastal security apparatus, but also brought to fore the lackadaisical attitude of the governments, both state and central, towards coastal security. Coastal security, a hitherto disregarded issue, became important only after the Mumbai 2008 terror attacks. Until then, securing the country's land borders remained the dominant discourse on national security, with India having fought three wars with Pakistan and a border war with China as well as continuing to grapple with various threats emanating from across the borders such as terrorism, infiltration, smuggling of arms and drugs, etc. Though activities like smuggling and refugee flows through the Indian coasts posed a challenge to security, these were not considered grave enough to merit concerted attention." Pushpita Das "Whither Coastal Security?", *IDSA Comment*, Institute for Defence Studies and Analyses, 26 November 2009, available at http://idsa.in/idsacomments/WhitherCoastalSecurity_pdas_261109?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+IdsaUpdates+%28IDSA+Updates%29 .

82 "In Chinese analysis, these efforts are necessary to resist growing threats from the U.S. military against the integrity of Chinese borders. The ADIZ is thus likely a response not only to Japan's "nationalization" of the Diaoyu/Senkaku Islands, but to the U.S. operational concept dubbed "Air-Sea Battle" (ASB) highlighted in Chinese analysis as proof of the threat of possible U.S. military intervention in China's interests. ASB is itself a reaction to China's earlier efforts to develop Anti-Access/Area Denial (A2/AD) capabilities, suggesting that Chinese and U.S. military planners are already engaged in a conceptual arms race to produce frameworks for controlling access to the Near Seas" Harry Kazianis "AirSea Battle and ADIZ: A Reaction to a Reaction", *China Brief*, Volume 13 Issue 24, Jamestown Foundation, 5 December 2013, available at http://www.jamestown.org/programs/chinabrief/single/?tx_ttnews[tt_news]=41720&tx_ttnews[backPid]=25&cHash=730e43928bd2bd8cc7a8bf49cc1b5bd6#.UqyzAOK83wo

83 "Prior to the 19th century, it had not faced enemies capable of posing a naval threat and, as a result, it had little interest in spending large sums of money on building a navy." George Friedman, *The Geopolitics of China: a Great Power Enclosed*, Austin, Stratfor Global Intelligence, 2008, p. 8, available at http://www.stratfor.com/analysis/geopolitics_china

Concerning this purported aim of the ADIZ, some observers have claimed that it is largely a "symbolic move", since China is either unable (for lack of assets), or unwilling (to avoid an open confrontation and in line with her incremental strategy) to enforce it. Writing for RUSI, Justin Bronk explained that Beijing had made it clear she was not planning to shoot down aircraft entering the zone unannounced, adding that "The announcement that China is not threatening to shoot down intruders raises the question of what role China actually assigns to its new ADIZ in national security policy". In answer to that question, he said that "It is highly probable that the Chinese government views the ADIZ as largely symbolic, rather than a tool to significantly expand the airspace under China's direct control". Bronk also believes that "The Chinese military is well aware that it cannot expect to enforce the conditions of the ADIZ where it overlaps with the Japanese zone without a full scale military confrontation".[84]

Chinese authorities seemed to emphasize the security purposes of the ADIZ when announcing it. At a media conference devoted to the announcement, held that same day, Defense Spokesman Yang Yujun was asked about Beijing's reasons, and his reply was that "Air Defense Identification Zone is an area of air space established by a coastal state beyond its territorial airspace to timely identify, monitor, control and react to aircraft entering this zone with potential air threats. It allows early-warning time and provides air security", adding that Beijing's "aim" was "safeguarding state sovereignty, territorial land and air security, and maintaining flight order" and that it was "a necessary measure taken by China in exercising its self-defense right". Yang explained that it was "not directed against any specific country or target" and that it did "not affect the freedom of over-flight in the related airspace". In response to another question, Yang elaborated, saying that "the easternmost point of the Zone is so close to China that combat aircraft can soon reach China's territorial airspace from the point. Therefore it is necessary for China to identify any aircraft from this point to assess its intentions and examine its identities so as to allow enough early-warning time for responsive measures in maintaining air security".[85]

Second, declaring an ADIZ over the Senkaku Islands may seem to be a step in line with Beijing's territorial demands over the islands. China publicly insists that they are part of her territory, and reinforces the message with constant naval (and recently aerial) incursions. Thus, seeking to get other countries to provide information about flights may be seen as a necessary concomitant, while on a political plane it could constitute a step forward in challenging Tokyo's claims to be in control. This is very important for China, in particular with the US in mind, since America takes no position on the ultimate sovereignty over the Senkaku Islands while considering them to fall under the aegis of the US-Japan Security Treaty by reason of Tokyo's control over them. Control, however, is not an all or nothing proposition, and by slowly eroding perceptions and realities on the ground Chinese planners may hope to gain an opening to split Washington from Tokyo, opening the way to American neutrality in operations designed to gain the islands. At an operational plane, a report by the Center for Strategic and International Studies (CSIS) noted that "China may also be responding to recent Japanese warnings that it reserves the right to shoot down unmanned drones that pose a threat to Japanese airspace. By creating an ADIZ that includes the Senkaku/Diaoyu Islands, Beijing

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84 Justin Bronk "China's Air Defence Identification Zone and its role in Chinese Geo-Strategic Policy", *RUSI Analysis*, Royal United Services Institute, 4 December 2013, available at http://www.rusi.org/analysis/commentary/ref:C529EF792AB902/#.UqfjP-K83wq

85 Andrew S. Erickson "Defense Spokesman Yang Yujun's Response to Questions on the Establishment of The East China Sea Air Defense Identification Zone", *Andrew S. Erickson: China Analysis from Original Sources*, 23 November 2013, available at http://www.andrewerickson.com/2013/11/defense-spokesman-yang-yujuns-response-to-questions-on-the-establishment-of-the-east-china-sea-air-defense-identification-zone/

may believe it has established a basis for challenging and, if necessary, taking action against Japanese aircraft operating in this zone".[86]

Third, it is very important to note that China's ADIZ covers the waters directly between Japan and Taiwan. Since Taipei's strategy in the event of an open crisis would be to gain time while US and Allied forces deployed, those waters and the skies above them are critically important. The most significant US forces in the theater are deployed in Japanese and South-Korean bases, and these could be first available. Initial media reaction to Beijing's announcement focused, to a great extent, on its impact on Japan and on the reaction by that country's government. Without in any way seeking to dispute the significance for Japan, it would be a mistake to overlook the potential impact on Taiwan. As noted by Zachary Keck in *The Diplomat*, "the East China Sea ADIZ is likely aimed in no small part at Japan in general and the Senkaku Islands in particular. Still, there's another more important factor at play here for China: Taiwan", among other reasons because it "effectively cuts off US forces in Japan and South Korea from Taiwan".[87] As explained by Robbin Laird and Ed Timperlake, there is a "strategic quadrangle" covering the waters from Singapore to South Korea to Japan and down to Australia, which is of great importance to US and Allied forces, since it is "a central area where the U.S. and several core allies are reaching out to shape collaborative defense capabilities to ensure defense in depth…. Freedom to operate in the quadrangle is a baseline requirement for allies to shape collaborative capabilities and policies. Effectiveness can only emerge from exercising evolving forces and shaping convergent concepts of operations". China's ADIZ, just like Taiwan, fall squarely within that quadrangle, prompting Laird and Timperlake to warn that "The PRC is putting down its marker onto the quadrangle and if not dealt with will undoubtedly expand its definitions of air and maritime defense outward". They believe that the move is "clearly a significant gambit to take a bit out of the strategic quadrangle and to foment discord among allies".[88] Speaking to Bloomberg TV, Professor Taniguchi also noted that the ADIZ was aimed at "the military aircraft of the surrounding nations" and that it "will affect very seriously the forward deployment of the United States's", which explained why Australia was "very much concerned as well".[89]

Keck stresses that "the ADIZ happens to cover the exact areas that the U.S. or Japan would have to traverse in order to promptly respond to a PLA invasion of Taiwan", adding that "Thus, if China can deny U.S. and allied forces the ability to operate in the waters and airspace covered by the ADIZ, the U.S. would be unable to use its immense military resources in South Korea and Japan in defense of Taiwan. Instead, the U.S. military would have to travel from Guam, the Philippines and other nations located around the South China Sea (until China establishes an ADIZ over that body of water as well). This is where the tyranny of distance really weighs heavily on U.S. forces".

The great distances involved in operating over this huge area means that "Clearly, air and naval forces face significant challenges in providing presence and operational effectiveness", and "This is

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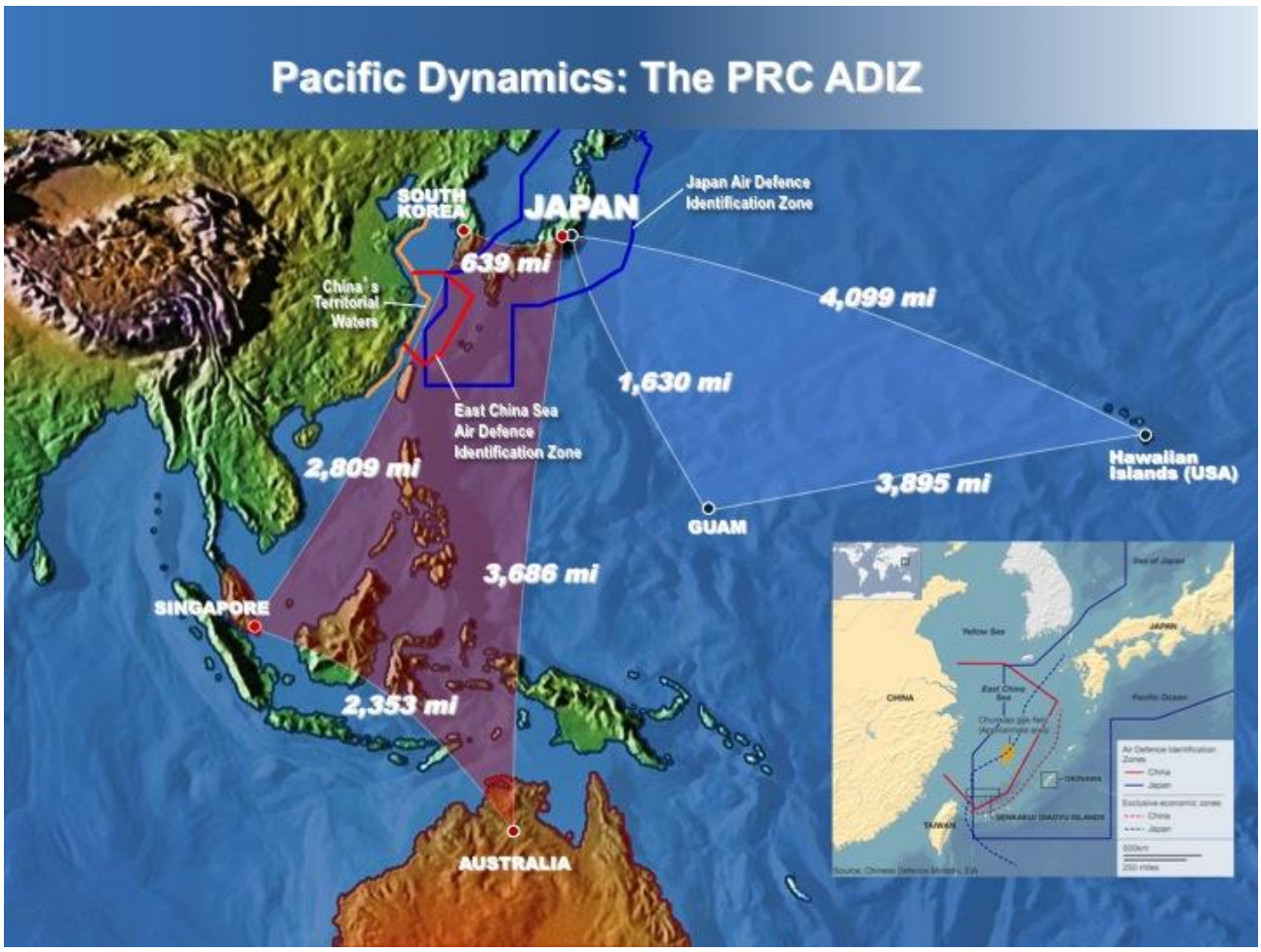
86 Nicholas Szechenyi, Victor Cha, Bonnie S. Glaser, Michael J. Green, and Christopher K. Johnson, *China's Air Defense Identification Zone: Impact on Regional Security*, Center for Strategic and International Studies (CSIS), , 26 November 2013, available at http://csis.org/publication/chinas-air-defense-identification-zone-impact-regional-security

87 Zachary Keck "Forget Japan: China's ADIZ Threatens Taiwan", *The Diplomat*, 5 December 2013, available at http://thediplomat.com/2013/12/forget-japan-chinas-adiz-threatens-taiwan/

88 Robbin Laird and Ed Timperlake "The PRC Declares an Air Defense Identification Zone: Challenging the Pacific Defense Quadrangle", *Second Line of Defense*, 2 December 2013, available at http://www.sldinfo.com/the-prc-declares-an-air-defense-identification-zone-challenging-the-pacific-defense-quadrangle/

89 Interview with Professor Taniguchi. "China Air Zone Move a `Serious Challenge'", *Bloomberg TV*, 28 November 2013, available at http://www.bloomberg.com/video/china-air-zone-move-a-serious-challenge-Q7TeaXd3SM2vXKKN8H4eOA.html

why a key element of shaping an effective U.S. strategy in the Pacific will rest on much greater ability for the allies to work together and much greater capability for U.S. forces to work effectively with those allied forces", something that any restriction on movement may make more difficult to achieve[90]



Map accompanying Laird and Timperlake's article, illustrating how China's ADIZ strandles across some of the key sealines for increased coordination among the maritime democracies and depicting the "strategic quadrangle" and the "strategic triangle" Hawaii-Guam-Japan.[91]

Taiwan's key geographical location has long been recognized, with General MacArthur describing the island as an "unsinkable" carrier.[92] Two further reasons why Taiwan are important are, the fact

90 Zachary Keck "Forget Japan: China's ADIZ Threatens Taiwan", *The Diplomat*, 5 December 2013, available at http://thediplomat.com/2013/12/forget-japan-chinas-adiz-threatens-taiwan/

91 Map taken from Robbin Laird and Ed Timperlake "The PRC Declares an Air Defense Identification Zone: Challenging the Pacific Defense Quadrangle", *Second Line of Defense*, 2 December 2013, available at http://www.sldinfo.com/the-prc-declares-an-air-defense-identification-zone-challenging-the-pacific-defense-quadrangle/

92 "Chief among them was Formosa, which he described as an 'unsinkable carrier-tender.' He said: 'The Geographic location of Formosa is such that in the hands of a power unfriendly to the United States it constitutes an enemy salient in the very center' of America's strategic dispositions in the Pacific" William Manchester, *American Caesar: Douglas MacArthur 1880-1964*, (New York: Dell Publishing, 1978), p. 676.

that it combines Chinese culture with the knock on the door at five o'clock in the morning being from the milkman,[93][94] and for Japan the fact that Tokyo's rule on the island was relatively benign.[95]

Third, some observers have seen the establishment of an ADIZ as another small step toward what they see as the gradual encroachment in other countries' territories, be they on land or at sea. These voices tend to stress that these small steps are part of a larger game, being interconnected and designed not to elicit a violent response, so that they can proceed, moving Beijing closer to her goals, without prompting an open conflict. In an article on China's ADIZ, Professor Chellaney (Centre for Policy Research in New Delhi) referred to such pattern of actions as a "salami-slice" strategy, defining it as "Irredentist China's incremental encroachments into neighbors' borderlands". He also noted that in May 2012 the PLA's Major General Zhang Zhaozhong had called it a "cabbage" strategy,[96] adding that "This involves asserting a claim, launching furtive incursions into the coveted territory, and erecting — one at a time — cabbage-style multiple layers of security around a contested area so as deny access to an opponent". Stressing this gradualistic approach, Chellaney explained that "As part of its step-by-step strategy, Beijing has no intention of enforcing its air-defense identification zone immediately. Efforts at enforcement will come later when circumstances are more favorable. Right now, the priority of China's leaders is to prevail in the game of chicken that they have started". Chellaney also believes that a component of this strategy is to time moves to coincide with events elsewhere, in this case the announcement of an interim deal on Iran's nuclear program[97]

When discussing China's incremental approach to disputed territories, we should perhaps not consider it in isolation but see it as part of her grand strategy of limited conflict. It is not just in "peace" time that Beijing has been seen to take small steps not significant enough in and by themselves to prompt war, but also when war has indeed broken out China's goal has been to act

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93 Observers closer to Beijing but who wish to stress the potential for the PRC to develop politically tend to look towards Singapore, rather than Taiwan, as a potential role-model.

94 "at a time when Beijing is still arguing that multi-party democracy is not suitable for China, Taiwan's status as the first and only Chinese democracy represents a rival political system" Daffyd Fell, *Government and Politics in Taiwan,* (London: Routledge, 2012), p. 4.

95 Although there are different views on this, generally speaking we do not see the kind of events that took place in other areas under Japanese control, while the economy developed significantly during that period.

96 General Zhang Zhaozhong was specifically referring to his country's dispute with the Philippines, in an interview with state TV. A translation of the interview includes the following description of the strategy: "The fishermen conduct normal production there. In the area around the island, fishing administration ships and marine surveillance ships are conducting normal patrols while in the outer ring there are navy warships. The island is thus wrapped layer by layer like a cabbage. As a result, a cabbage strategy has taken shape. ... If the Philippines wants to go in, in the outermost area, it has first to ask whether our navy will allow it. Then it has to ask whether our fishery administration ships and marine surveillance ships will allow it. Therefore, our fishermen can carry out their production safely while our country's marine rights and interests as well as sovereignty are safeguarded. Is that not satisfactory? ... We can adopt this method elsewhere. We have not resorted to war and we have not forced the others to do anything, have we? You have invaded and then left. You have violated Chinese law and China's sovereignty and territorial integrity, haven't you? Why did you point your guns at our fishermen? As you have first violated the law and pointed your guns at our fishermen, you would never be allowed to enter the area. ... We should do more such things in the future. For those small islands, only a few troopers are able to station on each of them, but there is no food or even drinking water there. If we carry out the "cabbage" strategy, you will not be able to send food and drinking water onto the islands. Without the supply for one or two weeks, the troopers stationed there will leave the islands on their own. Once they have left, they will never be able to come back", and can be found at "China boasts of strategy to 'recover' islands occupied by Philippines", *China Daily Mail*, 28 May 2013, available at http://chinadailymail.com/2013/05/28/china-boasts-of-strategy-to-recover-islands-occupied-by-philippines/

97 Brahma Chellaney "CHELLANEY: China's game of chicken", *Washington Times*, 8 December 2013, available at http://www.washingtontimes.com/news/2013/dec/8/chellaney-chinas-game-of-chicken/

quickly and decisively, "teaching a lesson" to her neighbors,[98] while avoiding long and costly campaigns of uncertain result and potentially destabilizing consequences.[99] As noted by Brahma Chellaney, this reflects Sun Tzu's doctrine: "Since the Mao Zedong era, China has adhered to ancient theorist Sun Tzu's advice: 'The ability to subdue the enemy without any battle is the ultimate reflection of the most supreme strategy.' This approach involves taking an adversary by surprise by exploiting its weaknesses and seizing an opportunistic timing, as well as camouflaging offense as defense. As Sun Tzu said, 'All warfare is based on deception.' Only when a war by stealth cannot achieve the sought objectives should an overt war be unleashed".[100] To be fair, other great empires have also relied on similar doctrines in the past, since it is difficult to secure one's objectives merely by open force. Concerning the "American way of war", although some historians have focused on short, sharp, displays of overwhelming military power,[101] a look at US history also shows a long string of "small wars", in particular if one looks at the Marine Corps.[102]

Finally, we may consider whether the setting up of the ADIZ may have been at least partly motivated by either popular or military pressure. There is certainly a sizable portion of the Chinese public who favor a muscular foreign policy, although of course the same could be said about other countries. We could also mention a great deal of mistrust towards Japan due to historical reasons, and in the case of Taiwan a widespread belief that the island is part of China, regardless of the will of its population, that is without the need to gain the consent of the Taiwanese, seen as an object not a subject. To this (mutual) mistrust concerning Japan and the rejection of the principle of self-determination we must add the widespread perception among Chinese commentators that the country is finally able to make a comeback after one century (from the Opium Wars to the end of the Civil War) of interference by a number of actors (chief among them Great Britain, France,

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98 "According to one China-watcher, the 1962 War, ostensibly fallout from a contentious boundary dispute, was in reality the interim finale of an intense rivalry, with the purpose of cutting India down to size. This is corroborated in an authoritative biography of Nehru with a quote from a Chinese official who explained that the prime objective of the 1962 war was to demolish India's 'arrogance' and 'illusions of grandeur' and that China 'had taught India a lesson and, if necessary, they would teach her a lesson again and again.'" Mohan Malik Mohan, "War Talk: Perceptual Gaps in 'Chindia' Relations", *China Brief*, Jamestown Foundation, Volume 9, Issue 20, 07-10-2009, available at www.jamestown.org/programs/chinabrief/single/?tx_ttnews[tt_news]=35589&tx_ttnews[backPid]=25&cHash=127f567fb8

99 For a look at the most significant features of Chinese strategic thinking and war-making style, see Brahma Chellaney, "How China Fights: Lessons From the 1962 Sino-Indian War", *The Daily Beast*, 29 October 2012, available at

100 Brahma Chellaney "China's stealth wars of acquisition", *The Japan Times*, 29 April 2013, available at http://www.japantimes.co.jp/opinion/2013/04/29/commentary/chinas-stealth-wars-of-acquisition/#.UqjqNeK83wo

101 Korea will expose the difficulty of waging total war in the nuclear era and in the Asian landmass, this being one of the reasons for the rift between Truman and MacArthur. The latter clearly supported the view that force should be applied decisively "'Once war is forced upon us, there is no alternative than to apply every available means to bring it to a swift end. War's very object is victory – not prolonged indecision.' And, once again: 'In war, indeed, there can be no substitute for victory'", George C. Kenney, introduction, Douglas MacArthur, "An Old Soldier Fades Away into New Glory", *Life*, 30th April 1951, cited by Vorin E. Whan, editor, *A Soldier Speaks: Public Papers and Speeches of General of the Army Douglas MacArhur*, (New York: 1965), p. 245 and 251, cited by William Manchester, *American Caesar: Douglas MacArthur 1880-1964*, (New York: Dell Publishing, 1978), p. 789.

102 The still ongoing debate about Vietnam reflects these conflicting views, with some voices believing that the US was wrong to concentrate on conventional operations against the North Vietnamese Army to the detriment of counterinsurgency and others defending the priority given to defeating conventional units. Yet others stress that in some conflicts one may need to wage two very different wars at the same time, against two different kinds of enemies. For the view that it was right to concentrate on conventional operations, see Dale Andrade, "Westmoreland was right: learning the wrong lessons from the Vietnam War", *Small Wars & Insurgencies*, Vol. 19, No. 2, June 2008, p. 145–181, for the opposite perspective see Lewis Sorley, *A Better War: the Unexamined Victories and Final Tragedy of America's Last Years in Vietnam*, (Orlando: Harcourt Inc., 1999). The need not to falsely choose between the two is made clear in West Bing, *Area Security*, (Santa Monica: RAND Corporation, 1969), available at smallwarsjournal.com/sites/default/files/bingwestareasecurity1969.pdf

Russia, Japan, and the US), and three decades of diplomatic and economic isolation. That is, that this last century and a half have been an exception, an aberration, a deviation from the natural course of Chinese history, and that therefore the time has come to fully recover sovereignty and revert to the country's traditional preeminence. A look at China's online landscape, for example, reveals strong support in some quarters for a robust posture abroad, and in particular in Asia-Pacific. Of course, as usually happens when trying to gauge public opinion, it may be difficult to measure to what extent a vocal minority reflects the larger population or whether, on the contrary, there is a silent majority holding other views.[103] Some observers believe that, once Maoism has been discarded in the economic arena, the regime may be forced to rely on Chinese nationalism to retain popular support, but the picture may perhaps be a bit more nuanced. Others have noted that "cyber-nationalism had an enormous influence upon the Chinese government and its foreign policy decisions".[104] In a study on Chinese netizens' attitudes towards the two Koreas it was noted that "Chinese netizens have already proven to be a major player in the making of Chinese foreign policy", adding that with regards to Japan they "appear to frequently take conciliatory policies off the table, forcing China's foreign policy elite to choose among a narrowing range of hard-line policies".[105] Another author, studying Chinese online views of Latin America, wrote that "It is possible that both the optimists and the skeptics are correct, that democratization and nationalism are being promoted online at the same time".[106] The ADIZ has certainly been noticed by Chinese citizens active online, "On Sina Weibo, China's Twitter, over 200,000 recent posts mention the air defense map; of those sampled, the vast majority lauded Beijing for defending their sovereignty and territorial integrity".[107] We should however be careful not to automatically think that because a policy is popular, it has simply been prompted by popular pressure. As is often the case, government decisions may well constitute a response to different goals and pressures.

The degree to which the military may be lobbying for a forceful approach to territorial disputes may also be difficult to judge accurately. Although this has been said by some observers, and there are certainly some public figures who would confirm the view, such as the above quoted General Zhang Zhaozhong, we once more face the dilemma whether they represent the silent majority or are the exception.[108] It may make sense from an institutional point of view to support policies justifying

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[103] It is however possible and indeed useful to conduct studies. "There is no way to directly assess the views of China's policymaking elite toward the two Koreas. The views of China's netizens, however, can be studied and are worth studying: they provide a window into how Chinese society more broadly views the two Koreas, as well as the ways that elite Chinese policymakers, who after all are Chinese too, likely think and feel about the Koreas" Peter Gries "Disillusionement and Dismay: How Chinese Netizens Think and Feel About the Two Koreas", *Journal of East-Asian Studies* 12 (2012), p. 32 available at http://www.ou.edu/uschina/gries/articles/texts/Gries.2012.JEAS.ChinaKoreas.pdf

[104] Mingsheng Li "Chinese Nationalism in an Unequal Cyber War", *China Media Research*, 5 (4) 2009, p. 63, available at http://www.chinamediaresearch.net/readmore/vol5no4/CMR090407-Mingsheng-Li-done-new-1.jpg

[105] Peter Gries "Disillusionement and Dismay: How Chinese Netizens Think and Feel About the Two Koreas", *Journal of East-Asian Studies* 12 (2012), p. 32 available at http://www.ou.edu/uschina/gries/articles/texts/Gries.2012.JEAS.ChinaKoreas.pdf

[106] Kai chi-Leung "Sino-Latin American Relations in Qiangguo Forums", in Simon Shen and Shaun Breslin, *Online Chinese Nationalism and China's Bilateral Relations*, (Lanham: Lexington Books, 2010), p. 257

[107] David Wertime "Chinese Netizens Applaud Beijing's Aggressive New Defense Zone", *China File*, 25 November 2013, available at http://www.chinafile.com/chinese-netizens-applaud-beijing-s-aggressive-new-defense-zone

[108] For an in-depth examination of civil-military relations in China, see Michael Kiselycznyk and Phillip C. Saunders, *Civil-Military Relations in China: Assessing the PLA's Role in Elite Politics*, (Washington: National Defense University, 2010), available at http://www.ndu.edu/press/lib/pdf/china-perspectives/ChinaPerspectives-2.pdf A study of key historical episodes having shaped the relation between Party and Army can be found at Andrew Scobell, "SEVENTY-FIVE YEARS OF CIVIL-MILITARY RELATIONS: LESSONS LEARNED", in *Seventy-Five Years of Civil-Military Relations: Lessons Learned*, (Carslile: Strategic Studies Institute of the US Army War College (SSI), 2003), available at http://www.isn.ethz.ch/Digital-Library/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-

greater defense spending and a bigger political and social role for the military, but on the other hand a look into history shows that it is sometimes political leaders who are more ready to resort to force, with professional soldiers being more cautious.[109] It is also possible that some members of China's military may prefer to devote more resources to domestic security. In addition, some observers have referred to the dearth of military leaders in the top ranks of the regime, and Communist Party suspicions of letting the Armed Forces become too powerful, noting that "Since the CCP came to power, the civil-military relationship has been clearly defined so as to prevent the generals from manipulating China's politics. This reflects Mao's oft-cited dictum that 'The Party commands the gun, but the gun must never command the Party'". However, they have also noted that, while "the PLA's influence over Chinese politics and foreign policy isn't as strong as the Pentagon's", perhaps "after years of fostering a 'cult of military' among Chinese, the PLA's influence is bound to grow and become an increasingly ingrained feature of China's politics – and its foreign policy".[110] The incident last year, when a Chinese vessel painted with her radar a Japanese ship, led to renewed speculation over the actual degree of the Party's control over the military,[111] with Stratfor wondering whether it may be evidence of unauthorized actions by junior officers,[112] concluding however that "Given the close ties between the Party, the military and the government, and the nature of a large and sophisticated Chinese bureaucracy, it is difficult to give much credence to the idea that the Foreign Ministry spokesperson's statement was indicative of the military's independence from the Party, or even from the government". Stratfor also sees China's "complex maritime strategy" as driving "Beijing to rely increasingly on its naval and air force experts to craft a comprehensive and viable strategy", and together with the need to resort to the military to face natural disasters, plus its role in internal security, it "naturally raises the visibility and indeed, in some ways, the leverage of military officials".[113] Another piece from the same source explains that "For most of modern China's history, the military has been an internal force without much appetite for more worldly affairs. That is now changing, appropriately, due to China's growing global prominence and reliance on the global economy. But that means that a new balance must be found, and China's senior leadership must both accommodate and balance the military's perspective and what the military advocates for. As Chinese leaders deal with a generational transition, expanding international involvement and an increasingly difficult economic balance, the military is coming

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a6a8c7060233&lng=en&id=100618, whereas the post-Deng era is covered in detail in Nan Li, *Chinese Civil-Military Relations in the Post-Deng Era: Implications for Crisis Management and Naval Modernization*, (Newport: US Naval War College, 2010), available at https://www.usnwc.edu/Research---Gaming/China-Maritime-Studies-Institute/Publications/documents/China-Maritime-Study-No-4-January-2010.aspx

109 "This does not mean that you are warmongers. On the contrary, the soldier above all other people prays for peace, for he must suffer and bear the deepest wounds and scars of war" General Douglas MacArthur, *Farewell Speech Given to the Corps of Cadets at West Point*, 12 May 1962, available at http://www.nationalcenter.org/MacArthurFarewell.html

110 Le Hong Hiep "China's 'Cult of the Military'", *The Diplomat*, 2 December 2011, available at http://thediplomat.com/2011/12/chinas-cult-of-the-military/

111 "As Japan protests the recent move by a Chinese naval vessel to lock its fire-control radar on a Japanese ship, a Chinese Foreign Ministry spokesperson claimed Wednesday that the Ministry did not know about the specific event until it learned about it in the media. The statement has reinvigorated discussions about the rising influence of the People's Liberation Army and the level of political control over what is seen as an increasingly assertive military", "The Rising Role of China's Military" *Stratfor*, 7 February 2013, available at http://www.stratfor.com/sample/geopolitical-diary/rising-role-chinas-military

112 Other authors have gone as far as comparing the situation with that in Japan before the War " It is now being suggested that much like young Japanese officers in the 1930s, young Chinese military officers are increasingly taking charge of strategy with the result that rapid military growth is shaping the nation's broader foreign policy objectives", Harsh V. Pant "Tale of two defense policies", *Japan Times*, 16 March 2011, available at

112 http://search.japantimes.co.jp/mail/eo20110316a2.html

113 "The Rising Role of China's Military" *Stratfor*, 7 February 2013, available at http://www.stratfor.com/sample/geopolitical-diary/rising-role-chinas-military

into its own and making its interests heard more clearly. How this balance plays out will be tremendously significant".[114] Trefor Moss, a HK-based independent journalist, criticized some media outlets for running stories warning of the PLA's growing political clout, saying that "The idea of the PLA getting out of control, or at least of asserting greater influence over foreign policy, is of course an attractive one for the lazy headline-writer. It's news, unlike the long and deliberate arc of incremental military modernization, which is the real story of what's happening with the PLA". Moss also refered to the case of Major General Luo Yuan, who "has become a minor celebrity thanks to his forthright commentary on territorial disputes", including the above quoted interview about the Philippines. Moss stressed, however, that he was "a small fish in a big Chinese power-pond" and that "the government, while tolerating (or perhaps encouraging) his confrontational stance, did of course completely ignore his advice" and chose "civilian law enforcement ships rather than the PLA Navy to handle its spat with Manila". Moss believes that the Chinese military is happy with a subsidiary role in foreign affairs and is not "trying to grab influence over foreign policy", being content with its status "so long as the government continues to ramp up military spending – as it has done reliably for over two decades".[115] Other authors, such as the late Ellis Joffe, one of the pioneers in the academic study of the Chinese military, were also traditionally prudent while noting how in recent years "the military has moved closer to the center of decisionmaking on certain issues, and, as the Hong Kong handover demonstrated, is publicly playing a newly prominent role in upholding the most valued national asset of all—Chinese sovereignty".[116]

Experts react to the news. The announcement of the ADIZ led many observers to comment on the move and other countries' reactions. As is often the case, some of the most critical views came from India. Professor Chellaney explained on his Facebook page that this was "China's territorial creep in action: After claiming 80% of South China Sea, it sets up air defense identification zone encompassing Senkakus".[117] These words do not only reflect the strong suspicions that Chinese actions prompt in India, but also the connection between events in the East China and the South China Seas felt by many in Asia. Chellaney went even further, drawing a parallel between Chinese actions in the Himalayas and at sea, saying that "What China has done to Japan through its provocative new aerial zone is the equivalent of what it did to India by intruding 19km into Ladakh".[118]

King College's Alessio Patalano explained in a video blog entry that, while ADIZs "are not illegal, are not against international law", and indeed some of China's neighbors had already declared them, "the main issue, the main problem" was that in Beijing's case all planes crossing it were required to provide flight plans, even if not bound for China, something "beyond the borders of international standard practice". Describing the situation as a "political game" in which the East China Sea had become "an arena where the balance between the two most important regional actors, Japan and China, are redefining their relationship", Patalano then proceeded to explain some of the ways in which regional actors may manage and contain tensions "in the meantime", before a "political

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114 "China's Military Comes Into Its Own", *Geopolitical Weekly*, Stratfor, 18 January 2011, available at http://www.stratfor.com/weekly/20110117-chinas-military-comes-its-own

115 Trefor Moss "PLA Influence Over Chinese Politics: Fact of Fiction?", *The Diplomat*, 10 August 2012, available at http://thediplomat.com/2012/08/pla-influence-over-chinese-politics-fact-of-fiction/

116 Ellis Joffe, "3. THE MILITARY AND CHINA'S NEW POLITICS: TRENDS AND COUNTER-TRENDS", in James Mulvenon et al, editors, *The People's Liberation Army in the Information Age*, (Santa Monica: RAND Corporation, 1999), p. 23, available at http://www.rand.org/content/dam/rand/pubs/conf_proceedings/CF145/CF145.chap3.pdf

117 Facebook page of Brahma Chellaney, 23 November 2013, available at https://www.facebook.com/chellaney?fref=ts

118 Facebook page of Brahma Chellaney, 27 November 2013, available at https://www.facebook.com/chellaney?fref=ts

solution" to the conflict could be found. Among the "practical steps that should be taken" by Japan and China "in order to avoid inadvertent escalation", he listed "high-level meetings" and "hot lines". Patalano also recommended Tokyo and Beijing to "start thinking of the elements that bring them together", such as the need to enjoy the safe use of "the maritime and air spaces". With this goal in mind, the two countries may take steps to "make it safer to do so", like engaging in joint "search and rescue operations" and the "coordination of flight paths".[119]

Japan's Response. On the other hand, from a Japanese perspective, the ADIZ increases the pressure on the country's outposts and the vital sea lines of communication connecting it to the rest of the world. It threatens to open a rift with Washington, while at the same time offering the potential for deeper defense relations with the fellow maritime democracies and Vietnam, although this is not something to be taken for granted. Beyond national security and the economy, important enough in and by themselves, the ADIZ's position between Japan and Taiwan highlights the contested identity of the latter and its connection to Japanese identity itself. An independent Taiwan is not only beneficial for Japan when it comes to guarding its southern flank but it is also a bridge with its past and the chance to highlight some positive aspects of its colonial experience. President Ma's accommodating attitude has been criticized by the opposition and for all these reasons is seen with concern by Japanese authorities.

With regard to the Japanese Government's response to the ADIZ announcement, according to a 24 November communique by Tokyo's Foreign Affairs Ministry, "Mr. Junichi Ihara, Director-General of the Asian and Oceanian Affairs Bureau of MOFA lodged Japan's strong protest to Mr. Han Zhigiang, Minister of the Chinese Embassy in Japan concerning the establishment of an Air Defense Identification Zone in the East China Sea that the Ministry of National Defense of China had announced on the same day". In the protest it was said that the ADIZ was "totally unacceptable as it included the Japanese territorial airspace over the Senkaku Islands, which is an inherent territory of Japan", adding that China's "unilateral" move was "extremely dangerous as it could unilaterally escalate the situation surrounding the Senkaku Islands and lead to an unexpected occurrence of accidents in the airspace".[120] The reaction in the Japanese press was, generally speaking, also hostile to China's decision. In particular among the "weekly tabloids," with "five out of nine" publishing articles describing "scenarios that raised the possibility of a shooting war".[121] Further commentary by government officials and experts quickly moved to three key issues: Washington's posture, instructions to civil airlines, and the possibility that Beijing may declare another ADIZ, covering the South China Sea.

Ideally, Japan would like to have seen the United States confirm in no uncertain terms that it was not recognizing China's ADIZ, and see this followed by military flights into it and orders to its airlines not to comply with Beijing's instructions and abstain from reporting flight plans. The result was a draw, with America sending two B-52s into the ADIZ in defiance of Chinese regulations, but shying away from instructing its civil airlines to take the same stance. It thus seems that America is following what we could call a partial appeasement policy, consisting in de facto accepting the ADIZ with the purported goal of avoiding risking the life of civilian passengers, while refusing to

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119 "Dr Alessio Patalano on China's new air defence identification zone (ADIZ)", War Studies KCL, *Youtube*, 9 December 2013, available at http://www.youtube.com/watch?v=VG2okbTBSJU&feature=youtu.be

120 "Assistant Press Secretary(International Press Division), MOFA Japan", website of the Japanese Foreign Affairs Ministry, 24 November 2013, available at http://www.mofa.go.jp/press/release/press4e_000100.html

121 Mark Schreiber "Impending Japan-China war has the makings of a Clancy classic", *The Japan Times*, 7 December 2013, available at http://www.japantimes.co.jp/news/2013/12/07/national/impending-japan-china-war-has-the-makings-of-a-clancy-classic/#.UqSDmfTuITU

diplomatically acknowledge it and continuing to fly military planes regardless of Beijing's regulations. As always happens with compromise policies, some people may see it as an attempt to strike a balance, supporting regional allies and sending a message to Beijing, while seeking not to escalate tensions and minimizing the chances of an incident resulting in the downing of an airliner. Others may see it as a sign of weakness, increasing the chances of a Chinese miscalculation, giving the impression that in the event of hostilities, particularly if limited in scope, Washington would not dare to send her Navy in harm's way.

The possibility that Beijing may have such a scenario in mind was stressed by Professor Tomohiko Taniguchi, senior adviser to the Japanese prime minister, who said that "For China, to send official vessels almost every day to Japan's waters and to up the ante by establishing its own air defense identification zone over the Senkakus both serve the same purpose, which is to dilute Japan's administrative control over the islands so that one day, applying the U.S.-Japan Security Treaty to the protection of the islands might invite some serious second thoughts". He added that this was "another attempt by Beijing to establish a fait accompli about its territorial claims by forcefully changing the status quo", stressing that "No responsible member of the rules-based international order should pursue such an exhibit of force"[122] Concerning the US-Japan Security Treaty, we should remember that the US takes no official position on the ultimate sovereignty over the islands, while pledging to defend Japan, understanding "Japan" as comprising all territories under administration by Tokyo. The window is thus clearly open to a miscalculation since, once could argue that, once a territory ceased to be under Japanese administration, it would no longer be covered by the US-Japan Security Treaty. Of course, one could also argue that the offensive operations leading to that loss of control may trigger American intervention, but here we should remember that there are many ways in which Tokyo may lose control over one or more of the Senkaku Islands. Setting aside traditional amphibious operations, where Chinese capabilities are still modest and which furthermore are very "noisy", there are there other ways to establish a presence, including an aerial assault for example.[123]

Concerning instructions to civil airlines, while Japan Airlines and All Nippon Airways originally complied with China's request to provide flight plans, they later "reversed course following pressure from the Japanese government".[124]

The response by Taiwan. Let us now turn our attention to Taiwan, whose reaction to the ADIZ is evidence of its divided identity and Taipei's difficult balancing act in trying to survive as a de facto independent while not overly challenging Chinese claims to the Island. We have earlier explained the potential significance of the ADIZ in the event of a major crisis. Although Taipei protested the setting up of China's ADIZ, the response was relatively low-key, as noted by a number of observers. The Asahi Shimbun described Taipei as "noticeably quiet on the matter, despite the fact some of its

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[122] Facebook page of Tomohiko Taniguchi, 23 November 2013, available at https://www.facebook.com/tomohiko.taniguchi.12?fref=ts. The full comments were posted by Professor Taniguchi on his Facebook page, indicating that they had been made to journalist Ken Moritsugu, who partly reflected them in Ken Moritsugu "China sets air defense zone over East China Sea", *AP News*, 23 November, available at http://m.apnews.com/ap/db_268780/contentdetail.htm?contentguid=aRKTguV3

[123] Alex Calvo "The third dimension of warfare and tactical stability in the Senkaku Islands", Birmingham "'on War": The blog of the postgraduate students at the Centre for War Studies, University of Birmingham, 09 January 2013, Birmingham University, available at http://warstudies.wordpress.com/2013/01/09/the-third-dimension-of-warfare-and-tactical-stability-in-the-senkaku-islands/

[124] Demetri Sevastopulo "Q&A: What is an air defence identification zone?", *Financial Times*, 29 November 2013, available at http://www.ft.com/cms/s/0/26cf55ce-58da-11e3-a7cb-00144feabdc0.html?siteedition=intl#axzz2n8TGD3xK

own airspace falls under Beijing's ADIZ", adding that "analysts" saw it as reflecting "President Ma Ying-jeou's emphasis on improving ties with China". This emphasis has led to better relations on the surface, while a lack of transparency in dealing with Beijing has helped feed fears that Ma had not always placed the Island's interest at the forefront, which seems to have contributed to his low approval ratings.[125] While the government issued a statement on 29 November saying that the ADIZ would "not help the development of cross-straits relations", the legislative branch went further. After protests from the opposition benches, talks took place with ruling party lawmakers. The outcome was a joint statement saying that "A rigorous protest should be submitted to China and efforts made to fall in step with allies in the region. Flight plans should not have to be submitted" (to Beijing). At present Taiwanese commercial airlines are doing so[126] , as confirmed by President Ma himself in an interview where despite describing the ADIZ as "unhelpful to the positive development of relations between Taiwan and China" he stressed "aviation safety" and explained that if airlines operating in the region wanted Taiwan's Civil Aeronautics Administration (CAA) to submit their flight plans to China on their behalf, "we will provide that service". Ma said, however, that "Taiwan's Air Force patrols and training operations" in the overlapping area with China's ADIZ (some 23,000 square km) would not be affected. He also explained that there was an overlap between Japan's ADIZ and Taipei's FIR and that since 2009 Taipei had been following Japanese instructions to submit flight plans of all civilian planes going through that overlapping area.[127] Ma's words are notable in a number of counts. First of all, his distinction between civilian planes (to submit flight plans to Beijing) and military aircraft (to ignore China's ADIZ) echoes American policy and could well end up representing the most widespread reaction to the Chinese move. It could be seen as a balance, accommodating China's ADIZ in order to reduce the risk of incidents involving airliners while refusing to set a precedent which could be taken as meaning that, whatever the diplomatic protests, the new zone was being accepted. The irony lies in the fact that, as seen earlier, one of China's motivations was pushing for a security envelope, a belt of sea and air devoid of potentially hostile military assets, rather than just getting civilian planes to provide flight information. On the other hand, though, Beijing may see this as a first step, and in addition welcome its symbolic value.

Second, the public acknowledgment that Taipei is providing flight plans to Tokyo concerning airliners flying through the area where both countries' air identification zones is significant on two counts. It constitutes evidence that overlapping ADIZs do not necessarily translate into conflict, if a

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125 "A third area of dissatisfaction is with the KMT's cross-Strait policies. Clearly some voters are disappointed that the advent of normal cross-Strait trade and transport has not led to the promised economic boom. Others complain that trade liberalization has undermined certain Taiwanese industries, such as the towel producers. The government also took criticism as a result of the scandal over melamine contaminated milk powder imports from China in 2008. Ma's government is commonly attacked for being non transparent in its policy making over China. For instance, despite its parliamentary majorities, recent cross-Strait agreements have not been subjected to parliamentary scrutiny or ratification. Such concerns explain why there appears to be limited public understanding of what the proposed Economic Cooperation Framework Agreement (ECFA) with China will actually contain and limited trust in the government's ability to put Taiwan's interest first in such an agreement. The first three variables mainly apply to voters that may have actually supported Ma in 2008. However, for those on the anti Chinese side of Taiwanese politics, Ma's two years prove that Ma is hell bent on sacrificing Taiwan's sovereignty and conspiring to cooperate with the People's Republic of China (PRC) towards the goal of unification. Such accusations abound in the anti-KMT media and blogosphere." Dafydd Fell, *Prospects for Taiwan and Cross-Strait Relations: 20*

125 *10-2016*, (London: School of Oriental and African Studies, 2009), p. 3, available at http://eprints.soas.ac.uk/12053/1/Taiwan_China_Relations_New_Ash_volume_paper.pdf

126 Satoshi Ukai and Akihiko Kaise "Taiwan shows restrained reaction to China's ADIZ", The Asahi Shimbun, 30 November 2013, available at http://ajw.asahi.com/article/special/isles_dispute/AJ201311300046

127 Lee Shu-hua and Y.L. Kao "President Ma to urge China not to designate ADIZ in South China Sea", *Focus Taiwan*, , 6 December 2013, available at http://focustaiwan.tw/news/acs/201312060021.aspx

measure of pragmatism can be found on both sides. In addition, acting in this way with regard to Japan may allow Ma to claim that he is not bending to Beijing's will and that he is no Chinese puppet,[128] but that instead he is simply following the same moderate, pragmatic, policy that has been in place towards another major neighboring country. Only time will tell whether Taipei can persist in this complex balancing act,[129] but at least in the short term this may among others provide additional momentum to successfully conclude the current round of fisheries negotiations with Tokyo.[130] The first agreement in this area was a significant diplomatic success for Japanese Prime Minister Shinzo Abe, and one in which he invested considerable political capital. Together with the launching of the 2+2 regular dialogue with Russia, it shows a picture of a pragmatic Abe, very far from some of the criticism often metered at the Japanese leader. Concerning Ma, Shannon Tiezzi has warned that, in setting up an ADIZ overlapping with Taiwan's, Beijing risks prompting a "backlash" in the Island, and end up facing less accommodating future Taiwanese leaders. Tiezzi believes that "Ma Ying-jeou's presidential legacy is inextricably tied to his engagement with the mainland. Should Ma Ying-jeou end his term in disgrace, it will be politically difficult for either a KMT or DPP successor to continue the same level of cooperation with Beijing", and concludes her piece in The Diplomat writing that "As a result, China's aggressive move to solidify its claims over some uninhabited rocks might jeopardize its chances at a far larger prize — eventual unification

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128 In the past he has sometimes been accused of being hostile to Japan "Earlier this month, Masaki Saito, Japan's top envoy to Taiwan, resigned as director of the Interchange Association, Tokyo's de facto embassy in Taipei. Saito stepped down after he angered the Ma administration in May by referring to Taiwan's international status as 'unresolved.' Ma blocked Saito from contacting him, the prime minister or the foreign minister, effectively making his job in Taiwan impossible. 'The way President Ma treated Ambassador Saito in such an unfriendly manner will definitely reinforce the image that he is a Chinese nationalist,' Jaushieh Joseph Wu, research fellow at the Institute of International Relations in the National Chengchi University in Taipei, said earlier this month. Wu used to serve in the previous Democratic Progressive Party government. Kuo Chen-lung, former deputy editor-in-chief of the China Times, a national daily in Taiwan, agreed that the government's response to Saito was 'disproportional.'

128 'It was very rude for a foreign representative to comment or even take a stand on domestic issues,' he said, but added that Saito had only taken the same stance as the proindependence opposition party. Saito's resignation is the latest incident that has threatened to sour Japan-Taiwan relations. Shortly after Ma took office last year, Taiwan's then prime minister, Liu Chao-shiuan, threatened war with Japan over a collision between Taiwanese and Japanese vessels in disputed waters. Meanwhile, territorial rights over the Senkaku Islands in the East China Sea continue to be claimed by Taiwan, Japan and China. According to Wu, Ma displays a streak of anti-Japan nationalism that runs counter to the feelings of many Taiwanese, who see Japan as an ally against China. 'When the DPP was in power, Taiwan was described by some Japanese politicians as the only Japan-friendly country in East Asia,' Wu said." Mariko Kato, "Will Warmer Ties Burn Taiwan?", *The Japan Times*, 30 December 2009, *available at* http://search.japantimes.co.jp/mail/nn20091230f1.html

129 Which seems to be the most likely course of action in the immediate future "A range of domestic and international factors will determine which direction China Taiwan relations move towards over the next six years. My analysis suggests that the most likely scenario by 2016 will be a continuation of the status quo, in other words maintaining Taiwan's de facto political independence. It is also possible that by 2016 the first steps towards a compromise formula will have been taken, though this will require a new level of flexibility from political elites on both sides of the Taiwan Strait. The hopes of Chinese and Taiwanese nationalists for more drastic solutions of reunification or independence are likely to be dashed in the foreseeable future" Dafydd Fell, *Prospects for Taiwan and Cross-Strait Relations: 2010-2016*, (London: School of Oriental and African Studies, 2009), p. 11, available at http://eprints.soas.ac.uk/12053/1/Taiwan_China_Relations_New_Ash_volume_paper.pdf

130 More generally, the Japanese leg is necessary for Taipei to gain some room to maneuvre when seeking to launch diplomatic initiatives and secure some sort of accomodation in the region. Alex Calvo, "President Ma's Peace Initiative and the Strategic Triangle Beijing-Taipei-Tokyo", *TESS Working Papers*, 31 August 2012, The Eurasia Studies Society (TESS), available at eurasiasociety.files.wordpress.com/2011/11/mas-peace-initiative-and-the-strategic-triangle-calvo.doc

with Taiwan".[131] . A reminder of the dangers of opening up new fronts when victory over an island is yet to be achieved.

The main Taiwanese opposition party, the DPP, did not just protest against the administration's policy but conducted an opinion poll on 3-4 December, showing, out of 1,338 valid responses, 75.2% against the Civil Aeronautics Administration complying with the Chinese request for flight plans, with 15.4% for. 64.6% considered President Ma's response to have been "too soft", with 23% judging it "fine" and 2% "too strong" (10.4% did not express an opinion). Taiwan's leader said that the ADIZ was "not connected to sovereignty", a statement 75.2% said they disagreed with, with 52% registering a "strong objection".[132]

Former Taiwanese President Lee Teng-hui emerged as a harsh critic of Taipei's policy of compliance. He said that it evidenced President Ma's "one-China mindset", adding that it risked making Taiwan appear before other countries as belonging to China. He asked "Is Taiwan an [independent] country or what? If the US and Japan can [refuse to comply with China's requirements], why can't Taiwan?", adding that the head of the state should act in accordance with "the best interests of the nation and its people". Also critical of the Ma administration was former representative to Japan Koh Se-kai, who stressed the different approach by the Taiwanese leader to the Senkaku/Diaoyu/Diayutai dispute and to China's ADIZ. He said that "The difference in Ma's handling of the two incidents underscores his pro-China stance… He has given up expanding the nation's military capacity and improving its public diplomacy because of China, while willingly turned himself into the leader of a 'client state'".[133]

The significance of China's ADIZ for Taiwan rests too on the fact that it includes the Senkaku Islands, which Taipei also claims, under the name Diaoyutai. While Taiwan's claim to a large extent rests on the same arguments put forward by Beijing, she stresses that they used to be part of Taiwan Prefecture under the Qing. In Chinese historical documents, they "are generally considered to have been part of the administrative zone of Taiwan",[134] while in a Foreign Policy article written last year by Taiwan's Foreign Minister Yung-lo Lin, titled "Those Islands Belong to Taiwan", he insisted that "the Diaoyutai Islands actually form an inherent part of the territory of the Republic of China (Taiwan) based on the islands' geographical location, geological structure, relevant historical evidence, and international law".[135] Two significant points can be made here. First of all, as noted by Tiezzi, "if mainland China does gain control of the islands, it would effectively be administering part of Taiwan".[136] Second, the arguments put forward by Taipei in claiming the Senkaku Islands, and the title itself of Lin's article, may evidence a degree of "nativization" of the claim, in the sense

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131 Shannon Tiezzi "Why China's Air Defense Identification Zone Is Terrible For Cross-Strait Relations", *The Diplomat*, 28 November 2013, available at http://thediplomat.com/2013/11/why-chinas-air-defense-identification-zone-is-terrible-for-cross-strait-relations/

132 Chris Wang "Public disagrees with ADIZ response: poll", *The Taipei Times*, 6 December 2013, available at http://www.taipeitimes.com/News/taiwan/archives/2013/12/06/2003578421

133 Lee Hsin-fang and Stacy Hsu "ADIZ stance undermines nation: Lee", *The Taipei Times*, 1 December 2013, available at http://www.taipeitimes.com/News/front/archives/2013/12/01/2003578043/1

134 Shannon Tiezzi "Why China's Air Defense Identification Zone Is Terrible For Cross-Strait Relations", *The Diplomat*, 28 November 2013, available at http://thediplomat.com/2013/11/why-chinas-air-defense-identification-zone-is-terrible-for-cross-strait-relations/

135 Yung-Lo Lin "Those Islands Belong to Taiwan", *Foreign Policy*, 18 October 2012, available at http://www.foreignpolicy.com/articles/2012/10/18/those_islands_belong_to_taiwan#sthash.eHwwmhNU.dpbs

136 Shannon Tiezzi "Why China's Air Defense Identification Zone Is Terrible For Cross-Strait Relations", *The Diplomat*, 28 November 2013, available at http://thediplomat.com/2013/11/why-chinas-air-defense-identification-zone-is-terrible-for-cross-strait-relations/

that in addition to referring to the Republic of China, it also rests on facts specifically connected to Taiwan, such as geography and geology. A reminder that the "One-China Policy" which Taipei adheres to and to which most governments subscribe may be slowly evolving, not least with reference to Japan.[137]

Washington's position. Initially, China's ADIZ prompted two official US statements on 23 November, one from the Pentagon and the other from the State Department. The text from the Defense Department said that the United States were "deeply concerned" and saw the new ADIZ as "a destabilizing attempt to alter the status quo in the region", adding that "this unilateral action increases the risk of misunderstanding and miscalculations". The text made it clear that the move would "not in any way change how the United States conducts military operations in the region" and stressed Washington's "commitments to our allies and partners", ending with an explicit reminder that "Article V of the U.S.-Japan Mutual Defense Treaty applies to the Senkaku Islands".[138] Two aspects are significant, from a Japanese perspective. One in line with Japanese interests, the other against. On the plus side for Tokyo, the Senkaku Islands were explicitly referred to by name, and not through a formula referring to their administration. As explained above, a view that American commitment to these islands is contingent on Tokyo's de facto control (since Washington takes no official position concerning their ultimate sovereignty) may leave the door open to a miscalculation, should Beijing believe that a quick and bloodless landing (there are no Japanese troops deployed, only Coastguard units and air assets providing a defensive envelope) would result in Washington having second thoughts about engaging Chinese forces. On the negative side for Japan, the statement referred only to "military operations", not civilian flights, although on the other hand this may be expected since the text came from the Pentagon, not the White House or the State Department.

The communique from the State Department also said that the United States were "deeply concerned" and called the action "unilateral" and "escalatory", describing it as "an attempt to change the status quo" and adding that it would "create risks of an incident". After stressing the importance of "freedom of overflight and other internationally lawful uses of sea and airspace" to "prosperity, stability, and security in the Pacific" it explained that Washington did not "support efforts" by any country to apply "ADIZ procedures to foreign aircraft not intending to enter its national airspace". The text also reminded readers of the United States' commitment "to our allies and partners" and expressed a wish to "see a more collaborative and less confrontational future in the Pacific".[139]

Also significant was US Ambassador Caroline Kennedy's maiden speech, where she criticized China's "unilateral actions" in the East-China Sea, saying that they "undermine security".[140] She

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137 Which has been taking some small but significant steps to more clearly distinguish Taiwan as a state in her own right. Alex Calvo "Japan Quietly Leads on Increased Recognition of Taiwan", *Shingetsu News Agency News*, 26 July 2012, Shingetsu News Agency, available at http://www.shingetsunewsagency.com/SNA/SNA_News/Entries/2012/7/26_Japan_Steps_toward_Recognition_of_Taiwan.html

138 "Statement by Secretary of Defense Chuck Hagel on the East China Sea Air Defense Identification Zone", Website of the US Embassy to the Republic of the Philippines, 23 November 2013, available at http://manila.usembassy.gov/statement-secretary-defense-chuck-hagel-east-china-sea-air-defense-identification-zone.html

139 "Statement on the East China Sea Air Defense Identification Zone", Website of the US Department of State, 23 November 2013, available at http://www.state.gov/secretary/remarks/2013/11/218013.htm

140 Deborah Kan and Yuka Hayashi "Caroline Kennedy Warns China Over Aggression", *KTVU News*, available at http://www.ktvu.com/videos/news/caroline-kennedy-warns-china-over-aggression/vCKGRM/

also noted that "Japan has shown great restraint this past year, and we urge them to continue to do so". After describing his late father's admiration for Japan and desire to visit the country as president, as well as the tight nature of joint US-Japan defense arrangements, Kennedy quoted Winston Churchill[141], saying "At the same time, as Winston Churchill said, 'We arm to parley'".[142]

US Ambassador Caroline Kennedy delivering a statement shortly after her arrival in Japan.[143]

The idea was clear: diplomacy can only succeed if supported by military might, which is not an end in itself but indispensable for a country's or an alliance's credibility. Quoting from the leader of an island which refused to surrender reinforced the message, made more personal on account of the strong connection between her late father and that island. Caroline Kennedy's grandfather was US Ambassador to the United Kingdom in her darkest hour, where he became associated with a well-meaning but ultimately self-defeating attempt to preserve peace at all costs,[144] whereas his father

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141 Granted honorary American citizenship by the US Congress, bestowed by President Kennedy at a White House ceremony on 9 April 1963. John Plumpton "A Son of America Though a Subject of Britain", *Finest Hour*, No 60, Summer 1988, Churchill Center, available at http://www.winstonchurchill.org/learn/biography/redux/churchill-honored-with-us-citizenship

142 "Ambassador Caroline Kennedy Addresses ACCJ and the America-Japan Society", website of the US Embassy to Tokyo, 27 November, available at http://japan.usembassy.gov/e/p/tp-20131127-01.html

143 Picture taken from Howard LaFranchi "Ambassador Caroline Kennedy lands in Japan. Could the timing be more perfect?", *Cristian Science Monitor*, 15 November 2013, available at http://www.csmonitor.com/USA/Foreign-Policy/2013/1115/Ambassador-Caroline-Kennedy-lands-in-Japan.-Could-the-timing-be-more-perfect

144 "Kennedy, a former Wall Street speculator and ex-chairman of the Securities and Exchange Commission, had closely aligned himself with the appeasement policies of the previous prime minister, Neville Chamberlain. During his three years in London, he had made no secret of his belief that 'wars were bad for business, and what was worse, for *his* business,' as journalist James 'Scotty' Reston put it. The U.S. ambassador believed this so firmly that he even used his official position to commandeer scarce cargo space on transatlantic ships for his own licour export business. After Chamberlain and the French prime minister handed over much of Czechoslovaquia to Adolf Hitler at Munich in September 1938, Kennedy remarked happily to Jan Masaryk, the Czechoslovak minister to Britain: 'Isn't it wonderful [that the crisis is over]? Now I can get to Palm Beach after all!'" Lynne Olson, *Citizens of London: The Americans Who Stood with Britain in Its Darkest, Finest Hour*, (London: Random House, 2011), p. 4. For a more sympathetic view of

wrote "Why England Slept"[145] analyzing what had gone wrong. Thus, in her family history itself, the new US ambassador to Japan can observe the difficult choices one faces when trying to avoid war.

Infograph posted by China's Defense Ministry, denouncing the flight by by two US B-52s through her newly-declared ADIZ[146]

In Japan on his way to China, US Vice President Joe Bidden also said that his country was "deeply concerned" but again this seemed to fall short of Japanese hopes and expectations.[147] On the other hand, the message from the legislative branch of government seemed stronger, with "the Democratic and Republican leaders of the U.S. Senate Foreign Relations Committee" issuing a letter on 5 December urging Beijing "not to implement" the ADIZ and adding that China's recent actions threatened "vital national interests of the United States".[148]

However, beyond these generic declarations of support for Japan, the vexed issue of what instructions to give to civil airlines seemed to open a rift between Tokyo and Washington. While Japanese authorities ordered the country's carriers to disregard Chinese regulations and abstain from

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Joseph Kennedy see Will Swift, *The Kennedys Amidst the Gathering Storm: A Thousand Days in London, 1938-1940*, (Washington: Smithsonian, 2008).

145 John Fitzerald Kennedy, *Why England Slept*, (New York: W. Funk, inc, 1940).

146 Image taken from "New ADIZ over South China Sea planned: foreign ministry", *Want China Times*, 28 November 2013, available at http://www.wantchinatimes.com/news-subclass-cnt.aspx?id=20131128000132&cid=1101

147 "Biden: US 'Deeply Concerned' at China's Air Defense Zone", *Voice of America*, 3 December 2013, available at http://www.voanews.com/content/biden-us-deeply-concerned-at-chinas-air-defense-zone/1802361.html

148 Patricia Zengerle "Key U.S. lawmakers urge China to back off on air defense zone", *Reuters*, 6 December 2013, available at http://ph.news.yahoo.com/key-u-lawmakers-urge-china-back-off-air-011057564.html

reporting flight plans to Beijing, Washington took the opposite decision. As noted by the Wall Street Journal, "Japanese officials on Sunday played down publicly—but complained privately—that the U.S. isn't following Tokyo in rebuffing Beijing's demands for foreign airlines to file flight plans when navigating through China's new air-defense zone. The developments came as Japan openly questioned the Chinese military's ability to police the zone".[149]

Washington's decision not to force a showdown with Beijing was confirmed by different official sources. The US recommended that commercial airlines comply with Chinese regulations "for the safety and security of passengers". US Ambassador to the Philippines Philip Goldberg said that "Even if we don't believe ADIZ is warranted, the United States does not impose an ADIZ on aircraft that are not entering US airspace. But at the same time, we can't with commercial aircraft, take chances as I mentioned of miscalculation so we have recommended to our commercial airlines that they give such notification".[150] Facing criticism from those who saw this as a concession, White House spokesman Jay Carney insisted that it was not the case, explaining that Washington did "not accept the legitimacy of China's requirements".[151]

Instructions to civil airlines are indeed a key issue, prompting some observers to note how American policy had evolved from initial defiance to later partial accommodation. For example Professor Chellaney posted a comment on his Facebook page saying that "Team Obama, changing course, appears willing to accept China's new air-defense zone".[152] Summing up the situation, Reuter's Paul Carsten wrote that "The United States has made clear it will stand by treaty obligations that require it to defend the Japanese-controlled islands, but it is also reluctant to get dragged into any military clash between the Asian rivals".[153] This policy will probably be praised by some as an expression of moderation, avoidance of foreign entanglements, balance between opposition to the zone and desire to avoid an escalation, and stress on diplomacy. Others may see it as a sign of weakness, lack of strategic direction, moral relativism, a failure to gauge the significance of what is at stake, and distraction with events in other regions of the world. Professor Chellaney summed up the latter view when he called the flight by two B-52s "tokenism" and called for a "credible response", asking President Obama to "turn his attention from the preoccupations of the Middle East to the potentially combustible situation in East Asia", asserting "U.S. leadership" in order to make his Asian "pivot" real and "help tame China's belligerence" while reassuring his country's allies. He added that "At stake in the East China Sea are not just some flyspeck islands, but regional power balance, a rules-based order, freedom of navigation of the skies and seas, and access to maritime resources, including seabed minerals. If China gets its way, the path to a Sino-centric Asia would open".[154]

The view from Seoul: South Korea extends her own ADIZ. Seoul's position is particularly relevant both because China's ADIZ covers some waters claimed by South Korea and because,

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149 Yuka Hayashi and Andy Pasztor "Japan, U.S. at Odds Over China's Air Zone", *The Wall Street Journal*, 1 December 2013, available at http://online.wsj.com/news/articles/SB10001424052702303562904579230894060384128

150 Catherine S. Valente "Goldberg: China's new air-defense zone could create tension", The Manila Times, 2 December 2013, available at http://manilatimes.net/goldberg-chinas-new-air-defense-zone-could-create-tension/57380/

151 "Biden: US 'Deeply Concerned' at China's Air Defense Zone", *Voice of America*, 3 December 2013, available at http://www.voanews.com/content/biden-us-deeply-concerned-at-chinas-air-defense-zone/1802361.html

152 Facebook page of Brahma Chellaney, 6 December 2013, available at https://www.facebook.com/chellaney?fref=ts

153 Paul Carsten "China's parliament: Japan has "no right to criticise" air defence zone", *Reuters*, 7 December 2013, available at http://ph.news.yahoo.com/china-39-parliament-japan-quot-no-criticise-quot-171808784.html

154 Brahma Chellaney "CHELLANEY: China's game of chicken", *Washington Times*, 8 December 2013, available at http://www.washingtontimes.com/news/2013/dec/8/chellaney-chinas-game-of-chicken/

following Beijing's move the ROK took a similar step on 8 December, extending her own air defense zone, effective 15 December. This followed an earlier South Korean request to China to withdraw her ADIZ since it overlapped with Seoul's, a request which Beijing turned down. Both Tokyo and Washington appeared to be comfortable with the Korean move, and publicly made it clear that they saw it in a very different light from Beijing's, stressing that they had been consulted and the Seoul had followed international rules.

Apart from extending to "parts of airspace also included in the Chinese zone", the Korean zone is significant since it "covers a submerged reef that South Korea controls but that China also claims". In addition, we should note that it "also overlaps with parts of the Japanese air defense zone". Concerning these different overlaps, Defense Ministry Spokesman Kim Min-seok told the media that Seoul would "discuss with neighboring countries steps to prevent accidental clashes within the South Korean zone", adding that it did "not infringe upon any country's airspace" and that Seoul had sufficiently explained the move to neighboring countries before announcing it. The American reaction was supportive, with the State Department saying that the Korean decision "avoids confusion for, or threats to, civilian airlines". In the words of State Department Spokeswoman Jen Psaki "The United States has been and will remain in close consultation with our allies and partners in the region to ensure their actions contribute to greater stability, predictability, and consistency with international practices".[155]

One of the reasons that may have prompted Seoul's move was the adverse reaction in the country's media when it became known that China's ADIZ included the submerged rock of Ieodo (Suyan for the Chinese), whereas the South Korean zone did not. Both countries claim sovereignty over it, while South Korea retains effective control[156] over it.[157] Concerning South Korean policy with regard to civilian flights through the Chinese ADIZ, it seems to be a middle-of-the-road approach, with instructions to Korean Airlines and Asiana Airlines to report flight plans only when crossing into the zone bound for China and not when simply traversing it.[158]

As to Tokyo's reaction, although this was the first time that South Korea's air defense zone crossed into Japan's, and despite recent tensions over historical and territorial issues, plus perennial mistrust between the two countries, the Japanese Government seemed ready to accept the move or at least not turn it into an issue. Since the two zones now overlap, sooner or later Tokyo and Seoul will have to negotiate either an agreed boundary or, at least, some sort of working understanding. In the past there have been some attempts to reach an agreement on air defense zone boundaries, without success. While there is no guarantee that future negotiations will bear fruit, neither Tokyo nor Seoul seem, at present, to wish to turn the matter into yet another burden on their troubled relationship. Thus, a Japanese Foreign Affairs Spokesman said on 8 December "We don't see any immediate

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155 "S. Korea expands air defense zone after Chinese move", Stars and Stripes, 8 December 2013, available at http://www.stripes.com/news/pacific/s-korea-expands-air-defense-zone-after-chinese-move-1.256632

156 Since this, and other geographical features discussed in the article, are uninhabited, the word "control" is employed without distinguising it from "pacification", while noting that in counterinsurgency environments their meaning does not coincide, as explained in West Bing, *Area Security*, (Santa Monica: RAND Corporation, 1969), p. 5, available at smallwarsjournal.com/sites/default/files/bingwestareasecurity1969.pdf

157 Demetri Sevastopulo and Simon Mundy "S Korea expands air defence zone amid rising tensions", *The Financial Times*, 9 December 2013, available at http://www.ft.com/intl/cms/s/0/148dbc1e-5fc6-11e3-a4cd-00144feabdc0.html#axzz2myoZTqrS

158 Demetri Sevastopulo "Q&A: What is an air defence identification zone?", *Financial Times*, 29 November 2013, available at http://www.ft.com/cms/s/0/26cf55ce-58da-11e3-a7cb-00144feabdc0.html?siteedition=intl#axzz2n8TGD3xK

problem with the South Korean ADIZ".[159] Translation: we may not necessarily like it, or accept it in all its details, but it is neither urgent nor appropriate to discuss it now. Anyway, this is a reminder that tensions and differences can and fortunately sometimes are contained and managed in East Asia, although when this happens the degree of media attention is lower.

Talking to the Financial Times, Mike Green (Center for Strategic and International Studies in Washington) explained that the intention behind the South Korean move was to "pushback against Beijing", adding that Seoul had asked Washington to urge Tokyo to "take a muted response". Green also said that, following a "honeymoon period with Beijing" by the new South Korean leader, "some of the more conservative and traditional foreign policy elites are worried she has gone too far" and that in declaring a new ADIZ "Beijing gave them an opportunity to correct course somewhat".[160]

It was not just Tokyo that chose not to make a major issue of South Korea's expanded air defense zone, with Beijing also offering a restrained response. On 6 December, aware that South Korea was preparing to expand its ADIZ, China said that she was "ready to maintain communication with the ROK side under the condition of equality and mutual respect". Chinese Foreign Ministry Spokesman said that the expansion "should be in line with its national laws and international norms", adding that an ADIZ "is not part of a country's territorial airspace and has nothing to do with the administrative rights over sea and airspace. It is established for identification and early warning".[161]

Although the timing may have been determined, or at least influenced, by Beijing's decision, the expansion of the South Korean ADIZ was not a complete surprise. For a number of years Seoul had appeared interested in widening her ADIZ, and in November 2012 she called on Beijing to alter her air-defense zone in order to reflect the country's concerns. Following a Chinese refusal, South Korean officials let it be known that they would ponder changes to their own zone. It was not only China, but also Japan and the United States which were aware of South Korean intentions. As a result of these previous talks, and other factors such as not covering any Japanese territory, an article by the Wall Street Journal concluded that "The move to proceed is unlikely to significantly raise tensions in the region", explaining that "China has reacted calmly to the South Korean plans, which have also been accepted by the U.S. and Japan".[162]

US Vice President Joe Biden took advantage of his trip to the Far East to discuss the issue with South Korean President Park Geun-hye at a meeting on 6 December in Seoul. Following the gathering, a US official said that Biden had "expressed understanding" for the decision. At the same time, Japanese Prime Minister Spokesman Hikariko Ono explained that "Unlike the Chinese action, we reached an understanding beforehand, so this would not create an immediate problem for Japan-Korea relations", adding that Seoul had made it clear that the expansion would not affect freedom

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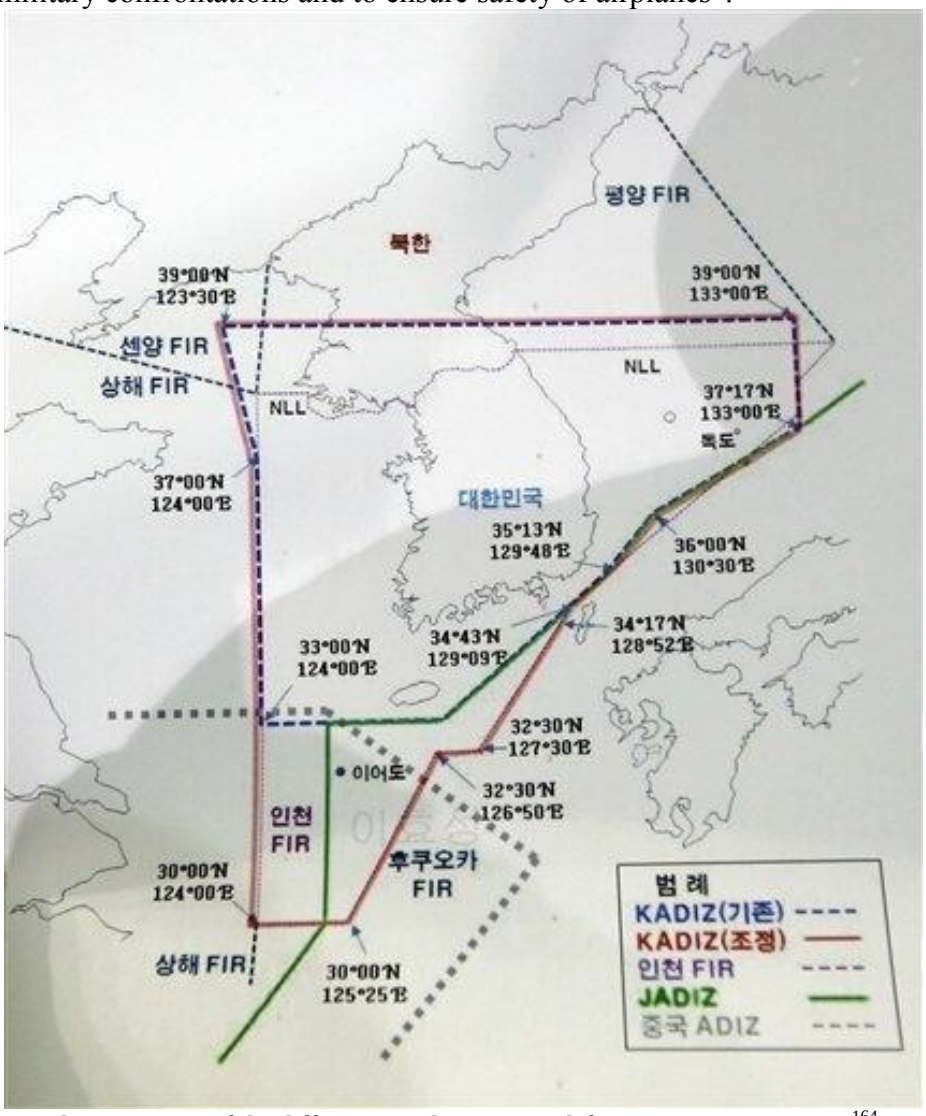
159 Demetri Sevastopulo and Simon Mundy "S Korea expands air defence zone amid rising tensions", *The Financial Times*, 9 December 2013, available at http://www.ft.com/intl/cms/s/0/148dbc1e-5fc6-11e3-a4cd-00144feabdc0.html#axzz2myoZTqrS

160 Demetri Sevastopulo and Simon Mundy "S Korea expands air defence zone amid rising tensions", *The Financial Times*, 9 December 2013, available at http://www.ft.com/intl/cms/s/0/148dbc1e-5fc6-11e3-a4cd-00144feabdc0.html#axzz2myoZTqrS

161 Demetri Sevastopulo and Simon Mundy "S Korea expands air defence zone amid rising tensions", *The Financial Times*, 9 December 2013, available at http://www.ft.com/intl/cms/s/0/148dbc1e-5fc6-11e3-a4cd-00144feabdc0.html#axzz2myoZTqrS

162 Alastair Gale and Min-Jeong Lee "South Korea Expands Air-Defense Zone", *The Wall Street Journal*, 8 December 2013, available at http://online.wsj.com/news/articles/SB10001424052702303722104579245253671874542

of navigation by commercial airliners. A spokesman for the South Korean Defense Ministry, Kim Min-seok, emphasized this, saying "We will coordinate with related countries to fend off accidental military confrontations and to ensure safety of airplanes".[163]



Map showing some of the different, overlapping, air defense zones in East Asia.[164]

The Russian enigma: how should we read Moscow's silence? Russia is not always associated in the minds of observers with the Asia-Pacific, but the country is major regional power and although not directly involved in the ADIZ dispute no analysis of the situation would be complete without examining Moscow's position.[165] In doing so, however, we find a dearth of official statements. A

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163 Alastair Gale and Min-Jeong Lee "South Korea Expands Air-Defense Zone", *The Wall Street Journal*, 8 December 2013, available at http://online.wsj.com/news/articles/SB10001424052702303722104579245253671874542

164 Picture taken from "New South Korean ADIZ overlaps with China and Japan", Tweeter account of M. Taylor Fravel, 8 December 2013, available at https://twitter.com/fravel/status/409700957292085248/photo/1

165 For a discussion whether Washington and Moscow may improve their relations due to shared interests in the Asia-Pacific Region, see Alex Calvo, "America's Failed (Bi-Partisan) Russia Policy: An Asia-Pacific Addendum", *TESS Working Papers*, 8 June 2012, The Eurasia Studies Society (TESS), available at http://eurasiasociety.files.wordpress.com/2011/11/an-asia-pacific-addendum-to-cohen-alex-calvo1.pdf

look at the website of the Russian Foreign Affairs Ministry does not seem to reveal any communique or other statement about this issue.[166] The press does not seem, either, to have collected any comments by high-ranking politicians and officials. An exception was Alexei Pushkov, head of the Foreign Affairs Committee of Russia's lower house of Parliament, who noted that the US and her allies were engaged in a “war of nerves” with China.[167]

Alexei Pushkov, head of the Russian Congress' Foreign Affairs Committee.[168]

Therefore, we cannot really point out at anything specific on open sources from the Russian administration, although there is certainly some interesting commentary on the situation in East Asia. Furthermore, we may ask ourselves why Russia has issued no official statement. It may be tempting to see it as evidence that this is no vital matter for Moscow, but the fact that statements are regularly issued on matters which objectively speaking are of minor importance to Russia would militate against this explanation. Another possibility is that Russia is playing a subtle long-term game, observing developments in the Pacific, taking discrete yet significant steps such as deeper relations with Tokyo and weapons sales to Vietnam, while keeping a low profile. Russia is clearly not interested in a stronger China, but at the same time has no interest to see the country destabilize. We often ask ourselves who lost China, without realizing that the Soviet Union also lost China, a divided, weak China fitting with Moscow's interests, as Russian pre-war policy towards the country shows. An ideal end game for Russia may be a China strong enough to resist pressure from her maritime facade but not strong enough to turn that strength inwards, towards Central Asia and Siberia. A China too distracted to be a cause of concern for Russia. In addition, a North Korea less dependent on China, with a more multi-vectorial foreign policy and range of economic relations, would fit with Russia's need to diversify her energy exports and maximize her influence in North-

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166 The author would like to thank Russian researcher Maria Kuchma for her assistance in checking the Russian-language version of the Foreign Ministry's website and confirming that no statement had been issued on China's ADIZ as of 7 December 2013.

167 Source pointed out by Maria Kuchma “США и их союзники вступили в "войну нервов" с КНР, считает Пушков”, *Ria Novosti*, 8 December 2013, available at http://ria.ru/world/20131208/982757837.html

168 Picture taken from “США и их союзники вступили в "войну нервов" с КНР, считает Пушков”, *Ria Novosti*, 8 December 2013, available at http://ria.ru/world/20131208/982757837.html

East Asia, playing off one side against the other, and providing strategic cover for the much needed development of her Far East. Thus, Moscow may simply have no incentive to enter the debate on China's ADIZ, at least publicly, at this stage. It is clear, though, that where Russian and Chinese interests have clashed directly, namely in the Arctic, Moscow has drawn a line in the sand. It is also significant that, while Russian leader Putin may not have publicly addressed the ADIZ controversy, he happened to travel to Vietnam, where he "pledged to expand military supplies to Vietnam, a move that looks set to raise concerns from Beijing as tensions over the South China Sea linger". According to Zhang Mingliang (an expert on China's relations with South-East Asia from Guangzhou's Jinan University), Beijing probably watched closely any talks on future military co-operation during Putin's visit. He noted that "Russia has been the biggest supporter of Vietnam in the South China Sea", citing submarine sales and oil development cooperation in waters claimed by China.[169] Rumours about possible Russian-Taiwanese cooperation in building submarines continue but have not been confirmed.[170]

Despite the above explained little official commentary, some reports in the media may provide a glimpse of Russian views on the dispute. An article in the government daily Rossiiskaya Gazeta explained that there had been no reaction from Russia "because East China Sea is quite far from Russia's borders", while noting that other countries had reacted to China's move, and the state of affairs may lead to potential complicated conflict situations in the region.[171] On a more general plane, some Russian commentators have described the potential opportunities from the growing confrontation in the Pacific, with one expert writing last year that "Russia has a chance to position itself as a neutral force in the region, which can be capitalized into essential geopolitical and purely economic benefits in conditions of a standoff between two blocs, especially those that hypothetically are equal in strength"[172] and another voice adding more recently that "Russia's goal is to acquire reliable guarantees of its own security with regard to China, while avoiding full involvement in the growing Sino-American global rivalry and reaping all the benefits a third party can expect in such a situation".[173]

It is thus clear that we will have to keep watching Russia policy towards the Pacific very carefully.

China's next step: an ADIZ on the South China Sea? With regard to a possible second Chinese ADIZ, over the South China Sea or part of it, a number of observers have warned about this possibility. Professor Taniguchi posted a comment on his Facebook page on 27 November saying

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169 Kristine Kwok "Putin vows to boost Russian military supplies to Vietnam amid South China Sea dispute", *South China Morning Post*, 6 December 2013, available at http://www.scmp.com/news/asia/article/1354235/putin-vows-boost-russian-military-supplies-vietnam-amid-south-china-sea

170 Jyh-Perng Wang "Is Russia Helping Taiwan Build Submarines?", *China Brief*, Volume 11 Issue 4, Jamestown Foundation, 10 March 2011, available at http://www.jamestown.org/programs/chinabrief/single/?tx_ttnews[tt_news]=37632&tx_ttnews[backPid]=25&cHash=370f7b6ab59d670ac53ac3a8a24bffcc

171 "Если говорить про Россию, то Москва никак не отреагировала на все это, что и понятно: Восточно-Китайское море весьма далеко от границ РФ." and "Эта ситуация заставила и другие страны Восточной Азии вспомнить о своих претензиях и амбициях, что грозит потенциальными запутанными конфликтными ситуациями." Oleg Kirianov "Китай меняет стратегию в Восточной Азии", Rossiiskaya Gazeta, 3 December 2013, available at http://www.rg.ru/2013/12/03/azia-site.html. The author would like to thank Maria Kuchma for pointing out this source and providing a summary and translated excerpt.

172 Pavel Salin "Russia's Three Roads to Asia", *Russia in Global Affairs*, 27 December 2012, available at http://eng.globalaffairs.ru/number/Russias-Three-Roads-to-Asia-15818

173 Vassily Kashin "The Sum Total of All Fears", *Russia in Global Affairs*, 15 April 2013, available at http://eng.globalaffairs.ru/number/The-Sum-Total-of-All-Fears-15935

that if Beijing "in the future extended also to cover the South China Sea, the so-called ADIZ and the surface line Beijing is drawing in the sea both will constitute a three dimensional 'no-entry' space".[174]

There seems to be at least some support for such fears. Voice of Russia reported that on 25 November Chinese Foreign Affairs Ministry Spokesperson Qin Gang had said that Beijing was ready to set up a second ADIZ, over the South China Sea. After describing the East-China Sea ADIZ as "a buffer zone to defend the territorial integrity of China", he added that another such zone would "be established in due course" over the South China Sea.[175] Two days earlier, at a media conference following the ADIZ announcement, asked whether China would "establish other Air Defense Identification Zones", Defense Spokesman Yang Yujun replied that "China will establish other Air Defense Identification Zones at the right moment after necessary preparations are completed".[176]

Taiwanese President Ma explained in an interview that he would ask "ask China not to establish an air defense identification zone (ADIZ) over the South China Sea".[177] The issue is significant for Taiwan from many different perspectives, among them Taiping Island, a sizable feature in the South China Sea under Taipei's control. KMT legislator Yang Ying-xiong asked Director-General of the National Security Bureau (NSB) Tsai Der-sheng about the Island, enquiring "as to how Taiwan was prepared to respond if the PRC attempted to extend its ADIZ to Taiping Island". Der-sheng replied that negotiations had already taken place with the PRC's Defense Ministry, adding that Taipei would consider it to be "an unfriendly gesture if China insisted on extending the current ADIZ to the South China Sea".[178]

One of the consequences of a South China Sea ADIZ may be a deepening of the defense cooperation between Vietnam and India. For the time being, the Indian Navy is saying that they are not unduly worried by the East-China Sea ADIZ, since they do not "regularly" operate air assets there, but that they are watching possible Chinese moves in the South China Sea. Navy Chief Admiral D K Joshi said "Yes, we do have units with integral air element and sometimes they do operate (in South China Sea). Therefore, this particular issue (China's ADIZ in East China Sea) is under close examination".[179]

Some observers believe that the reaction by other powers to the East China Sea ADIZ will determine whether Beijing proceeds to declare another one. For example Professor Chellaney considers that "If China is able to ride out international criticism while holding its ground, it will be emboldened to set up a similarly expansive air-defense zone in the South China Sea, more than 80

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174 Facebook page of Tomohiko Taniguchi, 27 November 2013, available at https://www.facebook.com/tomohiko.taniguchi.12?fref=ts.

175 "New ADIZ over South China Sea planned: foreign ministry", *Want China Times*, 28 November 2013, available at http://www.wantchinatimes.com/news-subclass-cnt.aspx?id=20131128000132&cid=1101

176 Andrew S. Erickson "Defense Spokesman Yang Yujun's Response to Questions on the Establishment of The East China Sea Air Defense Identification Zone", *Andrew S. Erickson: China Analysis from Original Sources*, 23 November 2013, available at http://www.andrewerickson.com/2013/11/defense-spokesman-yang-yujuns-response-to-questions-on-the-establishment-of-the-east-china-sea-air-defense-identification-zone/

177 Lee Shu-hua and Y.L. Kao "President Ma to urge China not to designate ADIZ in South China Sea", *Focus Taiwan*, , 6 December 2013, available at http://focustaiwan.tw/news/acs/201312060021.aspx

178 Queena Yen "Taiwan vexed by China's ADIZ: NSB chief", *The China Post*, 5 December 2013, available at http://www.chinapost.com.tw/taiwan/china-taiwan-relations/2013/12/05/395227/Taiwan-vexed.htm

179 "Navy Closely Watching China Claims", *The New Indian Express*, 7 December 2013, available at http://www.newindianexpress.com/nation/Navy-Closely-Watching-China-Claims/2013/12/07/article1932211.ece

percent of which it now formally claims".[180] Another possibility would be for China to start declaring an ADIZ in a portion of that body of water. Ian Storey (Institute of Southeast Asian Studies in Singapore) believes that it would be "absolutely outrageous" if China set up an ADIZ covering the whole area within the "nine-dash line". Instead, he considers it more likely for Beijing to establish such a zone in the northern portion of the South China Sea, in particular over the waters around Hainan Island. Concerning this possibility, Gary Li (IHS Maritime) said that a Chinese ADIZ in the northern portion of the South China Sea would be "very, very sensitive". Li added that it would almost certainly overlap with that of Vietnam, which reaches northward until some 100 kilometer from Hainan Island, and which also includes the disputed Paracel Islands.[181]

The nuclear strategic calculus: is Beijing trying to better protect her submarine fleet? In addition to furthering her territorial demands and turn it into what some observers mockingly call "Lake Beijing", a South China Sea ADIZ may also be designed to enhance the security of China's nuclear strategic submarine fleet. This was pointed out by Termsak Chalermpalanupap (Institute of Southeast Asian Studies; ISEAS, in Singapore), who believes that "China wants safe passage for its submarines based in Hainan to the South China Sea and to the Pacific passing through the waters between southern Taiwan and northern Philippines", adding that "China sees its ADIZ as part of its strategic military posture". Chalermpalanupap sees it as "a serious possibility that soon China will also declare its ADIZ over the South China Sea".[182] Previous studies have noted that Beijing may be seeking to achieve air and naval superiority over the South China Sea in order to turn it into a safe haven for her strategic naval nuclear forces, allowing submarines to patrol undetected and thus assuring China's second-strike capability.[183] The recent leaks concerning the ability to strike at cities in the US West Coast could reinforce the attention paid to this aspect of China's ADIZ.[184] The

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180 Brahma Chellaney "CHELLANEY: China's game of chicken", *Washington Times*, 8 December 2013, available at http://www.washingtontimes.com/news/2013/dec/8/chellaney-chinas-game-of-chicken/

181 Demetri Sevastopulo "China heightens fears of widening tensions in Asian airspace", *Financial Times*, 29 November 2013, available at http://www.ft.com/intl/cms/s/0/e657c1da-58bf-11e3-a7cb-00144feabdc0.html

182 Parameswaran Ponnudurai "Will Beijing Declare a Special Air Defense Zone Over the South China Sea?", *Radio Free Asia*, 10 December 2013, available at http://www.rfa.org/english/commentaries/east-asia-beat/sea-12102013211631.html

183 "former rear admiral and commander of the Maritime Self-Defense Force's antisubmarine air wing ... Kawamura believes Beijing is trying to turn the South China Sea into 'a safe haven' for its nuclear-powered submarines, which are armed with ballistic missiles that can reach the United States. For that purpose, seizing the Senkakus — just 190 km east of Taiwan and close to the northern gateway to the South China Sea — is indispensable, Kawamura says" Reiji Yoshida "Beijing's Senkaku goal: Sub 'safe haven' in South China Sea", *Japan Times*, 7 November 2012, available at http://www.japantimes.co.jp/text/nn20121107f1.html and "recent developments in China's nuclear weapons program suggest that there is another important dimension to Beijing's increasing assertiveness in enforcing its claimed jurisdiction in the semi-enclosed sea: protecting a new generation of nuclear-powered submarines armed with atomic warheads and based at Sanya on China's Hainan Island. "Without understanding the nuclear dimension of the South China Sea disputes, China's maritime expansion makes little sense," says Tetsuo Kotani, a special research fellow at the Okazaki Institute in Tokyo" Michael Richardson "Nuclear edge to sea disputes", *Japan Times*, 5 September 2012, available at http://www.japantimes.co.jp/text/eo20120905mr.html

184 "Chinese state-run media revealed for the first time this week that Beijing's nuclear submarines can attack American cities as a means to counterbalance U.S. nuclear deterrence in the Pacific. On Monday, leading media outlets including China Central TV, the People's Daily, the Global Times, the PLA Daily, the China Youth Daily and the Guangmin Daily ran identical, top-headlined reports about the 'awesomeness' of the People's Liberation Army navy's strategic submarine force. 'This is the first time in 42 years since the establishment of our navy's strategic submarine force that we reveal on such a large scale the secrets of our first-generation underwater nuclear force,' the Global Times said in a lengthy article titled 'China for the First Time Possesses Effective Underwater Nuclear Deterrence against the United States.' The article features 30 photos and graphics detailing, among other things, damage projections for Seattle and Los Angeles after being hit by Chinese nuclear warheads and the deadly radiation that would spread all the way to Chicago" Miles Yu "Inside China: Nuclear submarines capable of widespread attack on U.S.", *Washington Times*, 31

significance of China's ADIZ for Allied efforts to track Chinese submarines was described by naval analyst Pol Molas (Center for Strategic Studies of Catalonia), explaining that "Anti-submarine warfare (ASW), wherever it is 'played', implies teamwork. By imposing the ADIZ, Beijing could push out of the game one of the best ASW assets: the long range maritime patrol aircrafts. Without the constant watch of the MSDF P-3Cs squadrons, PLAN SSBNs could operate near the surface during wider periods, only hiding below the deep thermal layer to avoid the surface units threat. To be fair, Japanese ASW destroyers and diesel submarines are a serious threat to the Chinese SSBN fleet, however, without the Orion's 'ears' they would be spending more time finding them".[185]

Policy options open to China's neighbors. The different commentaries, official statements, and government actions, described to this point have already provided us with a view of some of the different options available to countries in the Indian-Pacific Ocean Region. We will now summarize them, grouping them under five different umbrellas: appeasement, diplomatic initiative, arbitration, a combination of civilian appeasement with military non-recognition, and defiance.

Appeasement would basically mean accepting the ADIZ and its different regulations, including the demand that all planes, civilian and military, submit flight plans in advance. As is traditional in such situations, two views could emerge. On the one hand some voices may expect this to put an end to the tensions resulting from this development, and even pave the way to preventing conflicts emerging from the escalation of the different existing disputes. On the other hand, others may believe that this would only lead to further Chinese demands and end up leading to a conflict of even greater dimensions. Another aspect of the debate on the ultimate impact of such a policy is its potential influence on existing alliances. Some observers fear that, should the United States fail to appear as strong and resolute in the eyes of her regional allies they may conclude that they need to rearm and seek alternative alliances in order to guarantee their security. This could finally lead to a breakdown of the non-proliferation regime, should countries like Japan conclude that, deprived of support from Washington and unable to balance Chinese conventional capabilities, only nuclear weapons could deter an attack on their territory. This may, however, be too simplistic a view, at least on two counts (leaving aside the costs of exiting the current international legal regime on nuclear weapons). First of all, while nuclear weapons can lead to an strategic equilibrium, as seen during the cold war and at a regional scale in South Asia, this is no absolute guarantee against limited conventional attacks and asymmetrical force in the form of, for example, state-sponsored terrorism. In theory, a state could mainly rely on nuclear weapons to defend its territory and population, by threatening an aggressor to respond to any attack, whatever its nature, by resort to them ("tripwire" approach). However, in actual practice this would be very difficult to implement, even more so when the other side also had nuclear weapons and therefore their employment would result in the mutual destruction of the two countries. A weaker country can indeed rely on nuclear weapons to prevent a massive conventional attack and to keep defense spending at a reasonable level while deterring a larger adversary. However, this reliance cannot be absolute, and will not allow that country to dispense with the need to develop conventional and counterinsurgency capabilities. Second, when unable to match a rival conventional force, resort to weapons of mass destruction is not the only alternative. It may also be possible to rely on asymmetrical doctrines and equipment, as has been urged on Taipei by some distinguished voices such as the US Naval War

October 2013, available at http://m.washingtontimes.com/news/2013/oct/31/inside-china-nuclear-submarines-capable-of-widespr/

185 Private communication to the author, 14 December 2013.

College's William S. Murray.[186] Hardening targets, laying mines, deploying anti-ship missiles onshore and on fast patrol boats, are some of the potential tools.

Another possible approach would be to launch a diplomatic offensive to try to, at least, reach some sort of agreement on the ADIZ (or failing that, limit the disagreements to aspects considered manageable), and ideally laying down a framework for the gradual settlement of the different territorial disputes and other differences in the region. As with any such ambitious undertaking, a number of obstacles could be expected. Among them, the large number of countries involved, the different nature and degree of intensity of some of the territorial disputes, and the difficulty of dealing with territorial disputes without at the same time tackling deeper differences. We must remember that some of these disputes do not just concern a given maritime border which different countries may draw through different lines, but significant aspects of the law of the sea such as the rights of coastal estates in their EEZ. The issue whether the Taiwanese can decide their own future and that of their children is also a major bone of contention, made all the more pressing by the feeling in some quarters that time may be running out for policies that seek to set aside the issue and keep the Island under an ambiguous legal status. In other cases, history is very much an issue, not only in terms of past events but also concerning current attitudes towards them and the way they are portrayed in the media and taught in schools. If we add to that the mistrust prompting some arms races, plus potential domestic pressure against concessions in more than a few countries, the picture that emerges is a complex one. This does not mean that it should be impossible to take diplomacy to a higher plane, although perhaps it would not be as quickly as we would wish. Some voices may prefer to try to first reach some basic confidence-building measures, to prevent an escalation of tensions, in line with Dr Patalano's suggestions. Next this could perhaps be followed by some partial agreements and maybe the setting up of some institutional architecture. China usually insists on bilateral dealings, rather than multilateral fora, which could be a problem. While some commentators present this position as resulting from Beijing's greater weight to most of her neighbors and mistrust of international institutions, the reasons may be more complex. Among them the cost in terms of image of seeing the long line of countries having territorial disputes with Beijing. A way to soften up this impression may perhaps be including all other territorial disputes in the region, in order to avoid portraying China as the only actor present in all of them. Another difference could appear between those observers who believe that negotiations on China's ADIZ could begin straight away, and those who fear that this could be taken to be a sign of weakness, thereby preferring to first defy Beijing's regulations in order to later negotiate from a position of greater strength.

A third potential approach may be international arbitration.[187] Could it be a way out of the current situation?. An answer to that question requires identifying its possible venues, the degree to which the parties to the dispute may be ready to accept it, and whether it may be feasible to seek an arbitration award concerning China's ADIZ without at the same time examining the underlying territorial disputes or even connected.

With regards to the first issue, if all the parties involved wished to move forward with arbitration a number of possibilities would be open, including resort to the International Court of Justice (ICJ) or an ad-hoc court. On the other hand, the Chicago Convention devotes Articles 84-86 to dispute

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186 William S. Murray, "Revisiting Taiwan's Defense Strategy", *Naval War College Review*, Summer 2008, Volume 61 No 3, p. 12-36, available at http://www.usnwc.edu/getattachment/ae650b06-a5e4-4b64-b4fd-2bcc8665c399/Revisiting-Taiwan-s-Defense-Strategy---William-S--.aspx

187 Which involves determinations of fact and of law, binding on participants, on not just a search for a solution to a single, isolated dispute. Antonio Cassese, *International Law*, (Oxford: Oxford University Press, 2005), p. 281.

resolution, allowing parties to take a matter to the Council and, if unsatisfied with the decision, "appeal from the decision of the Council to an ad hoc arbitral tribunal agreed upon with the other parties to the dispute or to the Permanent Court of International Justice",[188] which nowadays would mean the ICJ.[189] The text of the Convention does not seem to require the consent of all the parties involved. Therefore it may seem that even if one or more did not wish to submit the matter to arbitration, it could anyway move forward. Although arbitration is based on and requires the consent of the parties, this consent is sometimes contained in a treaty, so that by signing and ratifying it a state is consenting to arbitration in future instances, without the need to specifically consent to each and every dispute. The scope of such clauses, however, is not always clear. For example the Philippines have initiated arbitration proceedings against China under UNCLOS (United Nations Convention on the Law of the Sea), arguing that by ratifying it Beijing accepted compulsory arbitration, except in those matters where UNCLOS explicitly allows parties to opt out. On the other hand, Beijing says that the matters raised by Manila fall withing those opt outs and is therefore refusing to take part in the proceedings. At the time of writing the case is moving forward and an arbitration court has been convened, but it still has not ruled whether it has jurisdiction and, if so, issued any decision. Some observers believe that even if a ruling finally results and it favors Manila, it would unenforceable and therefore useless, whereas others emphasize the political and moral value of such an outcome for Manila and other countries involved in territorial disputes with Beijing [190] In the case of the Chicago Convention, if one or more of the parties sought arbitration and others refused, a similar situation may arise. Again, we may hear similar arguments on the ultimate impact of a ruling. Article 86 of the Convention says that "The decisions of the Permanent Court of International Justice and of an arbitral tribunal shall be final and binding",[191] but international law does not operate in a vacuum, isolated from political and military realities, and thus countries may be reluctant to launch such proceedings if unsure not only of the potential contents of the arbitration award but also of its effectiveness on the ground. Some voices may even fear pushing China into a corner. We must note, also, that in addition to the potential doubts about arbitration failing agreement to submit by the different parties, it may be arguable whether disputes on the declaration of an ADIZ fall within the scope of the Chicago Convention. Past arbitration cases have concerned different aspects of civilian air services, rather than the sort of dispute we are examining.[192] Furthermore, despite the provisions in the Chicago Convention, "the Council has largely failed to live up to the early expectations" concerning "its arbitral mandate under Chapter XVIII of the Chicago Convention".[193] Arbitration has not made great headway either under the aegis of bilateral civil aviation agreements, and it has been noted that "Although arbitration is a

188 "Convention on International Civil Aviation", Ninth Edition, 2006, website of the International Civil Aviation Organization, available at http://www.icao.int/publications/Documents/7300_cons.pdf

189 "Publications of the Permanent Court of International Justice (1922-1946)", website of the International Court of Justice, available at http://www.icj-cij.org/pcij/index.php?p1=9

190 For an overview of the Philippines-China international arbitration case, the different arguments and potential implications, see Alex Calvo, "Manila, Beijing, and UNCLOS: A Test Case?", *The Asia Pacific Journal: Japan Focus*, Volume 11, Issue 34, No. 11, 26 August 2013, available at http://japanfocus.org/-Alex-Calvo/3988# Also published by *The Asia Times*, 3 September, available at http://www.atimes.com/atimes/World/WOR-01-030913.html

191 "Convention on International Civil Aviation", Ninth Edition, 2006, website of the International Civil Aviation Organization, available at http://www.icao.int/publications/Documents/7300_cons.pdf

192 Vernon Nase "ADR and international aviation disputes between states — Part 2", *ADR Bulletin*, Volume 6 Number 6, 11 January 2003, available at http://epublications.bond.edu.au/cgi/viewcontent.cgi?article=1259&context=adr

193 Jon Bae "Review of the Dispute Settlement Mechanism Under the International Civil Aviation Organization: Contradiction of Political Body Adjudication ", *Journal of International Dispute Settlement*, 2013 4 (2), 19 February 2013, available at http://jids.oxfordjournals.org/content/early/2012/10/19/jnlids.ids017.full

favoured source of dispute resolution by virtue of its inclusion in the bilateral agreements, in practice it is used relatively infrequently".[194]

Concerning the commitment to arbitration of the parties to the dispute, the above mentioned case initiated by the Philippines has confirmed Chinese suspicions of international tribunals. Of course Beijing is not alone in feeling little inclined to let matters of vital national interest be decided by foreigners. It is no coincidence that "the heyday of international arbitration was the period between the two World Wars, when Western States still made up a relatively homogenous group and were still paramount in the world community".[195] To this mistrust, felt by many countries, we must add the fact that many in China see International Law as flowing from an alien cultural tradition and having been shaped by some of the same forces which for a century kept the country nominally sovereign but in practice very much in foreign hands. Thus, legal disputes with other countries often do not just involve the interpretation of a given rule or its application to a given set of facts, but the legitimacy of not just that rule itself but of the legal system to which it belongs and which has given rise to it. This does not necessarily mean that it is impossible for international law to play a role in Asia's territorial disputes, but we have to be aware of this factor. Maybe it will be a different international law, incorporating Chinese notions, which will end up emerging and playing a role. Furthermore, even if Beijing was ready to submit the matter to arbitration it is not completely clear whether everybody else would.

Finally, it could be argued that it may not be the best approach to try to tackle the ADIZ dispute without looking at the underlying disagreements, such as sovereignty over the Senkaku/Diaoyu/Diaoyutai Islands, or the legal status of Taiwan. All these issues are inextricably linked and it could be difficult to reach an agreement on one without closely examining the rest. On the other hand one could also defend the view that peacefully solving one of them may help build trust and set up a precedent, on which others may be approached, leaving the most intractable ones to some distant future. The cases of Russia and Japan, and Taiwan and Japan[196], show that it is indeed possible to set aside territorial disputes and reach agreements in areas such as economic and energy cooperation[197] and fisheries, respectively.

A fourth policy could be to combine appeasement in the civilian aviation industry, ordering carriers to provide flight plans to Beijing, with defiance in the military sphere, ignoring this request when it came to state aircraft and stepping up their presence in the ADIZ. We have already noted the two very different ways in which it could be seen, from a balanced middle-of the road approach designed to minimize the danger to civilians while preventing the emergence of a legal or diplomatic precedent, to a sign of weakness that may invite further unilateral action by Beijing. This

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194 Vernon Nase "ADR and international aviation disputes between states — Part 2", *ADR Bulletin*, Volume 6 Number 6, 11 January 2003, available at http://epublications.bond.edu.au/cgi/viewcontent.cgi?article=1259&context=adr

195 Antonio Cassese, *International Law*, (Oxford: Oxford University Press, 2005), p. 281.

196 Alex Calvo, "Adult Wisdom: The Japan-Taiwan Fisheries Deal", *The Tokyo Diplomat*, 19 April 2013, Shingetsu News Agency. The author would like to thank Dr Daffyd Fell (SOAS) for the chance to discuss this issue with Dr Alessio Patalano (King's College) at the Roundtable "Taiwan's role in maritime disputes in the West-Pacific Ocean", Centre of Taiwan Studies, SOAS (School of Oriental and African Studies), University of London, 21 June 2013, part of the Seventh SOAS Taiwan Studies Postgraduate Summer School, program available at http://www.soas.ac.uk/taiwanstudies/events/21jun2013-taiwans-role-in-maritime-disputes-in-the-west-pacific-ocean.html

197 For a look at the prospects for increased energy trade between Russia and Japan, and its implications, see Alex Calvo, "Can Russia Assist Japan in Fueling Its Energy Future? ", *Journal of Energy Security*, July 2012 Issue, 23 July 2012, available at http://www.ensec.org/index.php?option=com_content&view=article&id=376:can-russia-assist-japan-in-fueling-its-energy-future&catid=128:issue-content&Itemid=402

fourth option seems to be the one chosen by both Washington and Taipei, with Tokyo ordering her carriers instead not to provide flight plans. These different postures have caused a rift among allies, whose longer-term impact is still unclear.

Finally, countries may choose to ignore the ADIZ, flying both private and state aircraft through it. This would send the strongest possible message to Beijing, while on the other hand it could lead to incidents endangering the life if civilians if China chose to try to effectively enforce her rules. As seen earlier, international law seeks to restrict the degree of force that may be used against civilian aircraft, but a fact remains: it is very difficult to stop one without physically endangering it. Additionally, some voices may see this as further fanning tensions, rather than working towards a solution. Others, however, may see a weak response as leading to further moves, as discussed earlier when dealing with appeasement.

For the time being, the US and Taiwan seem to be leaning toward a mixture of appeasement in the civilian arena with defiance in the military. Whether this is a carefully-considered policy choice or an option by default in the face of a lack of a clear strategy is open to question. In the case of Taiwan, the country still has not decided what she wants to be when she grows up, or indeed whether she is free to decide what to be, and this complicates the Island's foreign and defense policies. In the case of Washington, Professor Andrew S. Erickson (US Naval War College) believes that "The U.S. has an implicit collection of approaches that together constitute a strategy ... but they would be more effective if they were brought together". He is not alone in thinking along these lines, with some voices being even more blunt. Naval analyst Ronald O'Rourke (Congressional Research Service) believes that, while one could examine "the classified war plans and decide if they reflect a strategy for conducting an upper-level war ...for situations short of war, it is not clear to me we have a strategy for that". He added that to develop such an strategy, the US "needs to involve our allies — it's not something we can do ourselves". O'Rourke's words are significant in that they point at a key conundrum facing China's neighbors: the fact that in today's world there is no clear cut dividing line between war and piece, with countries often moving uneasily in some sort of grey zone, where a limited degree of force may well coexist with otherwise normal political and economic relations. Jim Thomas (Center for Strategic and Budgetary Assessments) considers that "We don't have that strategy today", and using similar words, Seth Cropsey (a Navy official during the Reagan and George H. W. Bush administrations) holds the view that "No such strategy exists", adding that "forming one is difficult".[198]

Conclusions: another stage in long-running tensions, with the South China Sea looming large in the horizon. To conclude, we can say that China's ADIZ is yet another step in what for the Chinese is a return to their traditional status as a major power and the defense of their core national interests, and for their neighbors is unwarranted expansionism. These are radically different perceptions, very difficult to reconcile, despite the best efforts at diplomacy and a widespread desire not to see open warfare erupt in the Indian-Pacific Ocean Region. China, Japan, and the other countries involved in the tensions are aware that the key (from a Chinese perspective) to secure those major national goals or (from a maritime democratic perspective) to block them, is to effectively prevent (or respectively promote) the emergence of a well-coordinated coalition. This is why much expert and government attention, not just in Japan, has been directed at Washington's response and, specifically, at whether the United States would not just protest against the setting of

198 "The observations came at a hearing late Wednesday called by Rep. Randy Forbes, R-Va., chairman of the House Seapower subcommittee, to discuss China's growing naval power" Christopher P. Cavas "No Clear Strategy On China, Experts Say", *Defense News*, 11 December 2013, available at http://www.defensenews.com/article/20131211/DEFREG02/312110030/No-Clear-Strategy-China-Experts-Say

China's ADIZ and stress this by deploying warplanes in the area without informing China but instruct its civilian airlines to also defy Beijing and fly through the EEZ disregarding instructions to provide flight plans in advance. The outcome for Japan seems to be a mixed one, with Washington having joined Tokyo in protesting the EEZ and even having flown two B-52s through it, but at the same time instructing civilian airlines to accept it de facto. Also worrying for Japan is Taipei's quiet acquiescence, although on the bright side for Tokyo President Ma's policy has been criticized by the opposition and some Taiwanese observers, and he may tilt a bit towards Tokyo to avoid accusations of being pro-Chinese and to gain some room for maneuver, something w0hich could help reach a successful conclusion to the current round of fisheries negotiations. This is, however, just an aspect of the wider confrontation gradually brewing in Asia. The major challenges for Japanese national security remain in place, and Tokyo will have to keep thinking of how to draw the US closer, prevent the finlandization or straight Anschluss of Taiwan, reach a pragmatic understanding with Russia, effectively coordinate with the other maritime democracies, and win the always important public relations battle, appearing as a responsible and peace-loving country while portraying Beijing as the aggressor. This, together with economic policy and the reconstruction of Tohoku, may be the litmus test to judge Shinzo Abe's second term as prime minister. China, on the other hand, would ideally need to find a way to secure her major national security objectives while preventing the emergence of a hostile coalition, a shooting war, a consumer boycott (formal sanctions are unlikely), or further damage to her soft power and prestige. Concerning Washington, her role in the Western Pacific may be at stake, although the way different countries in the region have sought her support these days that she is still seen as they key security guarantor in these waters. For Russia, a limited degree of tension may enhance her position vis a vis China and provide openings for greater influence in Asia and tradeoffs elsewhere. Some benefits, in the shape of better relations with Japan and additional weapons exports to Vietnam are already clear.

Overall, there is still room for diplomacy, and ideally some sort of grand bargain providing an institutional framework to start solving the different territorial disputes and finding a way to accommodate China's desire to return to a great power status with her neighbors concerns. However, policymakers and observers are also considering other possible scenarios, however dreadful. Something they will be keenly watching is whether Moscow declares another ADIZ in the South China Sea, something which would widen the scope of countries directly involved in this controversy, including India and Russia, both of which have significant strategic stakes in Vietnam.

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