

China's ADIZ: A Case of an Overreach?

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When China announced on 23 November 2013 the establishment of an 'Air Defence Identification Zone' [ADIZ] in the East China Sea area and included the disputed Diaoyu/Senkaku islands in the zone; it was clear that the main target of this exercise was Japan. What China has initiated is not something that is unique, for there about 20 countries, including the US and Japan, that have also in the past unilaterally set up similar zones. Unlike elsewhere the Chinese and Japanese zones do have over-lapping areas and therefore the potential for a confrontation exists. However as far as international law is concerned this concept is barely recognized. Since this zone has been established in the air space adjacent to Chinese territorial air space what is its legitimacy in international law?

Normally under international law, a country's sovereign airspace extends to the outer limits of its territorial waters; that is 12 nautical miles from its coastline. Most countries require all foreign military aircraft to obtain permission to enter their airspace and reserve the right to take military action that includes shooting them down, in case there is no compliance. As both China and Japan claim the Senkaku/Diaoyu islands in the East China Sea as part of their territory they also claim sovereign airspace above the islands and over waters extending 12 nautical miles around them. Logically therefore as far as the rest of the zone is concerned it is international air space.

Apart from sovereignty over a 12 mile territorial limit there is also the concept of the Exclusive Economic Zone [EEZ]. According to the UN Convention on the Law of the Sea [UNCLOS], each signatory state can claim an EEZ that gives it special rights to exploit marine resources up to 200 nautical miles from its coastline. When EEZs overlap, states are supposed to negotiate an agreed boundary. Most states allow freedom of passage for foreign vessels through their EEZ to proceed unhindered. However, some states disagree on whether non-aggressive foreign military operations – such as reconnaissance patrols — should be allowed in their EEZ. China often intercepts and tracks foreign military planes over its EEZ, but usually does not take any military action.

It is obvious therefore that an ADIZ has no basis in international law, nor is it administered by any international organization. So definitions and rules vary between different countries. That Japan has decided to approach the International Civil Aviation Organization [ICAO] will perhaps be a test case. Normally ADIZs are established beyond a country's airspace to give its armed forces time to respond to potentially hostile incoming

aircraft. Many states require foreign military aircraft to identify themselves, but will not intercept nor repel them or force them to land unless they consider them a distinct threat. The US says that in its ADIZ it requires pre-notification procedures only if foreign aircraft intend to enter its sovereign airspace. China has made no such stipulations so far. If China decides to follow the US practice, that itself might lead to a lessening of tension with Japan.

The US has taken no position on the merits of the case involving the Sino-Japanese dispute over the Diaoyu/Senkaku islands; although it has made clear that the US-Japan Security Treaty covers the islands and that it considers them to be under Japanese administration. The US even dispatched unarmed B-52 bombers to fly into the Chinese ADIZ, without informing the Chinese authorities, to demonstrate its position as a faithful ally in Japanese eyes. And yet on the other hand keeping in mind the visit of Vice-President Biden to China, where it needs Chinese help to free a US citizen held by the North Koreans and to keep in check North Korean nuclear ambitions, the US allowed major American airlines such as United, American and Delta to notify Chinese authorities of their flight plans when traveling through the Chinese declared Air Defense Identification Zone (ADIZ). Apart from Japanese airlines, about 55 airlines from 19 countries have followed the US example. Although the US government also stated in the advisory issued to its airlines that this does not mean it accepts China's newly established zone, there is no doubt that this is a significant softened gesture to China. Therefore has China succeeded in causing fissures in US-Japanese relations?

There is no doubt that this an audacious foreign policy gambit played by China. Un-named Chinese officials have been quoted in the Chinese press to say that China is willing to instigate strategic confrontation against Japan and are prepared for it to last a 'long time.' The Chinese have quickly surmised that public opinion in the US is demonstrably against foreign military adventures and that the Obama Administration is even less so inclined, as seen in its posture over the Syrian imbroglio or the Iranian nuclear issue. If the US hesitates or prevaricates in its support of Japan, then the inevitable conclusion drawn by other East and South-East Asian States will be that the US is no more a reliable security provider. If this perception persists it would be to the immense strategic advantage of China who would then emerge as the strongest economic and military power in the region. Chinese official publications make it clear that if the US does not go 'too far,' China will not target it in safeguarding its air defense zone. Both the Chinese and the US realize that there is too much at stake in their bilateral relations for them to adopt harsh antagonistic postures. The Chinese President, Xi Jinping has been advocating a 'new' relationship with the US by underlining 3 basic principles. These are [a] No conflict and no confrontation [b] Mutual respect and [c] Win-win co-operation which means that each side abandon a zero sum mentality and *accommodate each-others interests as also deepen shared interests* [emphasis added].ⁱ There are indications that during his visit to Beijing Vice-President Biden told President Xi that the US had no major differences over this particular formulation.

There is no doubt that the Chinese have placed the US in an extremely acute diplomatic bind. Vice-President Biden visits to Tokyo, Beijing and Seoul recently have tested his diplomatic skills to the limit. Therefore it was his mission to urge 'restraint' on all parties

and while the US defended its ally Japan's position terming the ADIZ as 'illegitimate and a provocation,' Biden did not call for it to be rescinded. These differences of perception between the US and Japan were utilized by the Chinese to sublimely suggest that for the US its relations with China were far more important. The last thing that the US wants is a military confrontation between China and Japan over the insignificant Diaoyu/Senkaku islands. To an extent Biden succeeded in defusing tension when the Chinese Foreign Ministry spokesman said that the ADIZ was a 'zone of co-operation and not a zone of confrontation.'

Nationalist Japanese politicians will use China's belligerence to push for a revision of the Japanese Constitution, particularly Article 9. As any amendment to the Japanese Constitution requires a 2/3rds majority, it might be possible to attain this figure by overriding hitherto significant opposition on the shoulders of the anti-Chinese sentiments unleashed by China's provocative action. In other words, Japan may emerge as in PM Abe's words as a 'normal country,' without any of the self-denying military prohibitions that limit the role of the Japanese Self-Defence Forces. A militarily rejuvenated Japan is likely to cause immense strategic problems for China; for which its audacious move in setting up an ADIZ would be largely responsible.

China would also have hardly been comforted by the thought that not a single country in East and South East Asia supported its move. In fact it was just the opposite with almost all coming out in opposition to China's ADIZ. Even the bitterness in Japan-South Korean relations seemed to subside. China's diplomatic isolation was there for all to see and should it take belligerent action in the ADIZ, its position would further slide downwards. It is in this context that China just might agree to Vice-President Biden's pleas to enter into negotiations with Japan and South Korea on this issue or even tone down its strident position. How China manages the ADIZ in the future will to a large extent determine the outcome of the stand-off between China and Japan.

Views expressed are of the author and do not necessarily reflect the views of the IDSA or of the Government of India.

¹ Yang Jiechi. [Former Foreign Minister of China and presently State Councilor] "Innovations in China's Diplomatic Theory and Practice under New Conditions" 16 August 2013.