
INTERNATIONAL LAW STUDIES

— *Published Since 1895* —

Air Defense Identification Zones

Office of the Staff Judge Advocate



97 INT'L L. STUD. 7 (2021)

Volume 97



2021

Published by the Stockton Center for International Law

ISSN 2375-2831

Air Defense Identification Zones

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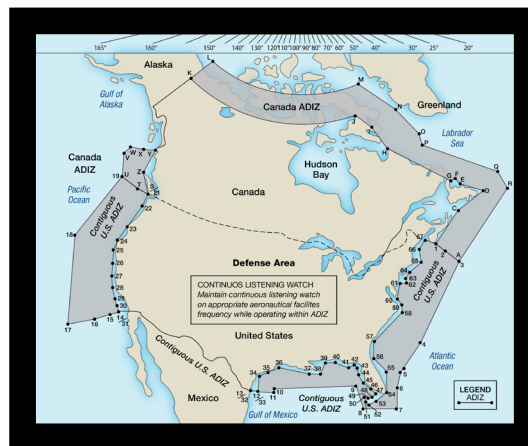
The thoughts and opinions expressed are not necessarily those of the U.S. government, the U.S. Department of the Navy, or the U.S. Naval War College.

The United States does not recognize any claim by a state to apply its air defense identification zone (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.

Legal Basis. International law does not prohibit a nation from establishing an ADIZ in international airspace adjacent to its national airspace. The legal basis for establishing an ADIZ in times of peace is that states have a right to establish reasonable conditions of entry into their land territory and national airspace. The legal theory for establishing an ADIZ is therefore analogous to the imposition of port entry requirements for ships entering a port or traversing internal waters. Aircraft approaching national airspace, therefore, may be required to provide identification even while in international airspace, but only as a condition of entry approval.

Definition. Annex 15 of the Chicago Convention defines an ADIZ as a special designated airspace of defined dimensions within which aircraft are required to comply with special identification and/or reporting procedures that supplement those related to civil air traffic services (ATS).¹ The United States defines an ADIZ, as an area of airspace over land or water in which the ready identification, location, and control of all aircraft, except military and other state aircraft, is required in the interest of national security.²

State Practice. There are approximately 20 nations that have established ADIZs in international airspace adjacent to their coasts. The United States established the first ADIZ (in conjunction with Canada) in 1950 and currently maintains four such zones: Contiguous U.S. ADIZ (with Canada), Alaska ADIZ, Guam ADIZ, and Hawaii ADIZ.³ The United States established the



Japanese ADIZ in 1951 and transferred management of the zone to Japan in 1969. The United States also established the South Korean ADIZ in 1951 during the Korean War. Other Indo-Pacific nations claiming ADIZs include Bangladesh, China, India, Pakistan, and Taiwan.

U.S. ADIZ Regulations. U.S. ADIZ rules are contained in Chapter 5 of the *Federal Aviation Administration's Aeronautical Information Manual*.⁴ The U.S. ADIZ was established to assist in early identification of aircraft in international airspace approaching U.S. national airspace. U.S. ADIZ regulations require aircraft bound for U.S. national airspace to file flight plans, provide periodic reports, and have a functioning two-way radio.⁵ Foreign civil aircraft may not enter the United States through an ADIZ unless the pilot reports the position of the aircraft when it is not less than one hour and not more than two hours average direct cruising distance from the United States.⁶ Deviations from the above rules are permitted during emergencies that require an immediate decision and action for the safety of flight.⁷

The United States does not recognize any claim by a state 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 transiting through a foreign ADIZ, which do not intend to enter foreign national airspace, normally will not identify themselves or otherwise comply with ADIZ procedures, unless the United States has specifically agreed to do so.⁸

China's East China Sea ADIZ Rules. In November 2013, China established an ADIZ over much of the East China Sea (See Figure 2 below). All aircraft entering the zone must file their flight plan and maintain communications with Chinese authorities, operate a radar transponder, and be clearly marked with their nationality and registration identification. Aircraft that do not cooperate with the identification procedures or follow the instructions of the Chinese authorities will be subject to undefined "defensive emergency measures."⁹ While international law does not prohibit nations from establishing ADIZs in international airspace off their coast, the manner in which Beijing implements and enforces its ADIZ is inconsistent with international law.

As stated above, aircraft approaching a coastal State's national airspace may be required to provide identification while in international airspace, but only as a condition of entry approval. China's ADIZ procedures, however, apply to all aircraft transiting the zone, regardless of whether they intend to

enter Chinese national airspace. Beijing's application of its ADIZ regulations to transiting aircraft that do not intend to enter Chinese national airspace is, therefore, inconsistent with international law. Aircraft of all nations are guaranteed freedom of overflight in international airspace seaward of the territorial sea.¹⁰ China may not, consistent with time-honored freedoms of navigation and overflight, condition transits through international airspace on pre-notification to Chinese authorities.



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1. Convention on International Civil Aviation annex 15 (Chicago Convention), Dec. 7, 1944, 15 U.N.T.S. 295 [hereinafter Chicago Convention].
 2. 14 C.F.R. § 99.3.
 3. For Contiguous U.S. ADIZ, see 14 C.F.R. § 99.43 (2004), for Alaska ADIZ, see 14 C.F.R. § 99.45 (2004), for Guam ADIZ, see 14 C.F.R. § 99.47 (2004), and for Hawaii ADIZ, see 14 C.F.R. § 99.49 (2004).
 4. 14 C.F.R. §§ 99.1–99.49.
 5. *Id.* §§ 99.9(a)–(c), 99.11(a), 99.17(b)–(c), 99.15(a), 91.183.
 6. *Id.* § 99.15(c).
 7. *Id.* § 99.5.
 8. U.S. Department of Defense, DoD Instruction 4540.01, Use of International Airspace by U.S. Military Aircraft and for Missile/Projectile Firings ¶ 6.4 (2007).
 9. Ministry of National Defense, People’s Republic of China, Announcement of the Aircraft Identification Rules for the East China Sea Air Defense Identification Zone of the P.R.C., CHINA DAILY (Nov. 23, 2013), https://www.chinadaily.com.cn/china/2013-11/23/content_17126618.htm.
 10. United Nations Convention on the Law of the Sea arts. 58, 86, 87, Dec. 10, 1982, 1833 U.N.T.S. 397; Chicago Convention, *supra* note 1, arts. 1, 3, 9, 15.