The long-simmering territorial dispute between China and Japan over islands in the East China Sea took to the air recently after China unexpectedly declared an air defense identification zone that included skies over the disputed islands. The US, Japan and South Korea quickly expressed their displeasure.

Cooler heads need to prevail on all sides to prevent this latest development from escalating, writes Mark J. Valencia.

ON NOVEMBER 23, China declared an air defense identification zone (ADIZ) over the East China Sea and then sent an “air patrol” to back it up. In response, Japan scrambled fighter jets. This set off a dangerous aerial cat-and-mouse game involving war planes from China, Japan, South Korea and the US. According to China’s declaration, any aircraft entering the ADIZ would need to submit its flight plans, maintain radio communication and reply promptly to identification inquiries from Chinese authorities. China also said that “[its] armed forces will adopt defensive emergency measures to respond to aircraft that do not co-operate in the identification or refuse to follow the instructions.” What that means is unclear, but China has denied that it means shooting down aircraft. Nevertheless, China placed its air force on high alert.

Further complicating the situation, China’s declared ADIZ partially overlaps those of Japan, Taiwan and South Korea, and overlies the disputed Diaoyu/Senkaku islands (see map). In response to China’s move, South Korea in December announced it was extending its own ADIZ further south, putting it in a position that overlaps zones maintained by Japan and China. The East China Sea was already the focus of intensifying disputes among all of the above.

The timing and manner of China’s actions have undoubtedly stressed an already tense situation. Indeed, officials and analysts in Japan and the US viewed these actions as stretching the already taut rope of China-Japan relations to the breaking point. Japan lodged what it called a “serious protest” and said that China’s new ADIZ...
escalated the danger of accidental “collisions” between the Chinese military and their US and Japanese counterparts.

The US jumped in with both feet. Secretary of State John Kerry said that “the US does not support efforts by any state to apply procedures of an air defense identification zone to foreign aircraft not intending to enter its national airspace. We urge China not to implement its threat to take action against aircraft that do not identify themselves or obey orders from Beijing.”

US Defense Secretary Chuck Hagel was more blunt. He said the imposition of the zone was a “destabilizing attempt to alter the status quo in the region.” Hagel reminded Beijing “that the disputed islands are covered by the 1952 US-Japan security treaty under which the US is committed to fighting alongside Japan to repel any common danger.” He went on to say that [this] “will not in any way change how the United States conducts military operations in the region.” Japan indicated that aircraft from its Self-Defense Force would ignore Beijing’s orders to “obtain its permission” before entering.

The US backed up the statements with action. On November 26, two US B-52 bombers out of Guam flew into China’s new ADIZ without — as US Colonel Steve Warren at the Pentagon put it — “filing flight plans, radioing ahead or registering our frequencies.” The move was apparently designed to ensure that the Chinese version of an ADIZ does not add to customary law or strengthen China’s maritime claims to islands or space in the area.

The B-52 sortie was soon followed by similar ones by Japanese and South Korean military aircraft, which also did not follow China’s ADIZ rules. So far, China has not shown any hostile intent and has done nothing more than monitor and observe the foreign military aircraft — occasionally from up close — thus following the same practice as the US and Japan. This soft follow-up suggests that China is more interested in establishing precedent and increasing pressure on Japan to at least acknowledge that there is a dispute over the islands than in creating an international incident. But this same inaction drew sharp criticism from domestic nationalists. In response, Qin Gang, a spokesperson for China’s Foreign Ministry, explained that “we will make corresponding responses according to different situations.”

**TWO SIDES TO THE STORY**

Obviously, the situation is fraught with issues of “face,” brinkmanship and opportunities for confrontation unless cooler heads prevail. The US move, in particular, seemed inflammatory and contradictory to the US position that China and Japan should resolve their maritime dispute in the area by diplomatic means.

As usual, there are at least two sides to the issue. From China’s perspective, it was simply leveling the playing field. China has a right by international precedent and practice to declare an ADIZ for its own self-defense and to maintain order in the airspace adjacent to its homeland. Moreover, China says that the ADIZ rules do not change the legal nature of that air space and will not affect normal commercial air traffic, implying that the ADIZ applies only to military aircraft. This needs clarification. China’s official Xinhua news agency also claimed the ADIZ “could contribute to regional peace and security by curbing the increasing rampancy of Japan’s right-wing forces.”

In China’s view, Japan is increasingly nationalistic and aggressive and has altered the status quo by “nationalizing” the disputed islands and refusing to even acknowledge that there is a dispute. In this context, China’s declaration of an ADIZ was probably designed in part to force Japan to recognize there is a dispute as well as a reaction to Japan’s threat to shoot down Chinese drones flying over the disputed area. If carried out, China said, this could be viewed as an act of war.

There may be a longer-range hidden motive, as well. If China declares a new ADIZ in the South China Sea — as is rumored by some to be in the works — it will be a means of countering in practice US airborne electronic intelligence-gathering along China’s coasts. The US sends as many as 400 flights a year of Navy EP-3E surveillance planes along China’s coasts outside its 12-nautical-mile territorial sea. They intercept communications, monitor coastal and offshore military activities and can — and allegedly have — included electronic probes, jamming and cyber-attacks. On April 1, 2001, two Chinese F-8 fighters intercepted a US Navy EP-3E about 70 miles southeast of Hainan Island. One of the Chinese fighters collided with the US Navy plane, destroying the Chinese fighter and causing a forced landing of the damaged US plane on Hainan Island. This led to an international crisis that was resolved only after saber-rattling verbal exchanges and tense negotiations.

ADIZs are not new and have always been unilateral and controversial. More than 20 countries have declared ADIZs, including Japan and South Korea. Japan’s ADIZ was created by the US during its post-World War II occupation of the country. Management of it was transferred to Japan in 1969. Japan unilaterally expanded its ADIZ twice after the US transfer, in 1972 and in 2010. On June 25, 2010, Japan extended it to cover Taiwan expressed its “regret” over Japan’s move.

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it was established by the US Air Force to block communist forces during the Korean War. After China’s declaration of its new zone in November, South Korean Defense Minister Kim Kwan-jin said Seoul “would consider extending its ADIZ in light of the extent of the Chinese ADIZ.” On December 8 it did so, extending it southwards to cover the disputed Socotra Rock, known to Koreans as Leodo and to Chinese as Suyan, which had been included in China’s new ADIZ.

WHY DOES THE US OBJECT?
The US seems to have three objections to the new Chinese zone: it overlaps those of its neighbors, including the Senkaku/Diaoyu Islands, which are claimed and administered by Japan, but also claimed by China; it includes both military and civilian aircraft; and its rules are applied to aircraft only transiting the zone. Let’s look at these objections one by one.

First of all, there is no international legal basis for such zones or their so-called rules — except perhaps the general principles of self-defense and freedom of overflight. The former will always take precedence for any country. The establishment and implementation of ADIZs have, as mentioned earlier, always been unilateral and controversial. For example, China and Russia do not recognize Japan’s ADIZs.

The US established the precedent for an ADIZ and its rules — for itself and Japan, Taiwan, and South Korea — after World War II, and thinks that all other nations’ ADIZs should be based on its model. But being first does not justify dictating the rules for all nations with diverse geography and national security interests, especially in the absence of an international agreement. That is, of course, unless one considers oneself the model for the world. In that case, this latest flap could be more about the fundamental clash between the existing dominant world power and a rising

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China. Of course, the overlap and the manner and timing of the implementation of this latest ADIZ increase the risk of misunderstanding and miscalculation. But China has the same self-defense right to establish such a zone as did Japan — or more accurately, the US on Japan’s behalf. Second, the US claims that it only applies its rules or recommendations regarding prior notification to civilian, not military, aircraft, and that they only apply to aircraft destined for US territorial airspace. However, in practice the US monitors and often intercepts with fighter jets both civilian and military aircraft that do not follow the recommendation to identify themselves and their destinations, particularly Russian Bear bombers in the Alaskan ADIZ. The US may try to split legal hairs by arguing that the notification “requests” only apply to civilian aircraft and that foreign military aircraft are monitored and intercepted under another system. But the practical effect is the same. And whatever that system may be, surely China and other countries have a self-defense right to do the same.

The US has five ADIZs around North America, including a large one off Alaska and the Aleutian Islands extending several hundred miles out to sea. In this ADIZ, both foreign civilian and military aircraft are monitored and interrogated regardless of destination. The US ADIZ is jointly administered by civilian air traffic control authorities and the North American Aerospace Defense Command (NORAD). The US requires — sorry, “recommends” — that any aircraft entering its ADIZ should radio its planned course and destination. Any aircraft in this zone that does not do so may be treated as a threat, potentially leading to interception by fighter aircraft. Despite what Kerry said, in actual practice, the US does attempt to apply its ADIZ to military aircraft not intending to enter US airspace. For example, the US routinely scrambles jet fighters to intercept Russian bombers in its ADIZ regardless of “destination.” Just in the last few months, US jets have intercepted Bear bombers in the Alaska ADIZ at least five times.

In theory, overlapping ADIZs are not unacceptable — Japan’s ADIZ overlaps that of Taiwan — and can be managed co-operatively, as is the case with the US and Canada. But in the East China Sea, they involve airspace over islands and maritime space disputed by two antagonists, and thus pose a potential for conflict. Hopefully, all sides will exercise restraint and the situation can be negotiated and resolved with perhaps some agreed voluntary guidelines for conduct of military aircraft in ADIZs, especially those that overlap. According to Sheila Smith of the US Council on Foreign Relations, Japan and Russia have a regular consultative process “to monitor military interactions and prevent risky behaviors” around the disputed Northern Territories/southern Kurile Islands.

But right now, there are no formal agreed rules regarding ADIZs or conduct within them. Rather than vitriolic rhetoric and brinkmanship, needed now are cool heads and negotiations to harmonize ADIZ practices. Perhaps an International Civil Aviation Organization conference or some organization with more gravitas, such as the United Nations, could help formulate an international agreement addressing these issues. US Vice President Joe Biden’s visit in December to Japan, China and South Korea is an opportunity to initiate a way forward.

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