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Air Defense Identification Zones (ADIZs)

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Part 1

Applicable Rules in International Conventions

1944 Chicago Convention

Article 1. Sovereignty

- The contracting States recognize that every State has complete and exclusive sovereignty over the airspace above its territory.

Article 2. Territory

- For the purposes of this Convention the territory of a State shall be deemed to be the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or mandate of such State.

Article 3. Civil and State aircraft

- This Convention shall be applicable only to civil aircraft, and shall not be applicable to state aircraft.

1944 Chicago Convention

Article 9. Prohibited areas

- (a) Each contracting State may, for reasons of military necessity or public safety, **restrict or prohibit** uniformly the aircraft of other States from flying over certain areas **of its territory**, provided that no distinction in this respect is made between the aircraft of the State whose territory is involved, engaged in international scheduled airline services, and the aircraft of the other contracting States likewise engaged.
- Such **prohibited areas shall be of reasonable extent and location** so as not to interfere unnecessarily with air navigation.

1944 Chicago Convention

Article 12. Rules of the air

- Each contracting State undertakes to keep its own regulations in these respects uniform, to the greatest possible extent, with those established from time to time under this Convention.
- Over the **high seas**, the rules in force shall be those established under this Convention.

1982 LOSC

1. The sovereignty of the coastal State includes the **airspace** above its territorial sea and its archipelagic waters
2. All States enjoy the **freedom of overflight** in the airspace above the **high seas**, which shall be exercised with **due regard** for the interests of other States in their exercise of the freedom of the high seas

1982 LOS Convention - EEZ

- All States enjoy the **freedom of overflight** in the **EEZ**
- In exercising their rights and performing their duties in the EEZ, States shall
 - have **due regard** to the rights and duties of the coastal State in the EEZ and
 - shall comply with the **laws and regulations** adopted by the coastal State *in accordance with this Convention and other rules of international law* in so far as they are not incompatible with this Part.

Conclusion on ADIZ and Global Conventions

- Although ADIZ are **not expressly prohibited** by global conventions
- The overriding principle is that there is **Freedom of Overflight** in the airspace seaward of the outer limit of the Territorial Sea
- It can be argued that the freedom of overflight includes the right of a coastal State to **intercept and identify** unidentified aircraft approaching their territory if such aircraft could pose a significant threat to its security
- The freedom of overflight must be exercised with **due regard** for the interests of other States in exercising their freedom of overflight

Part 2

Are ADIZs legal under Customary International Law?

Definition and Categories

- An area of airspace over land or water in which the ready **identification, location, and control** of aircraft are required in the interest of national security

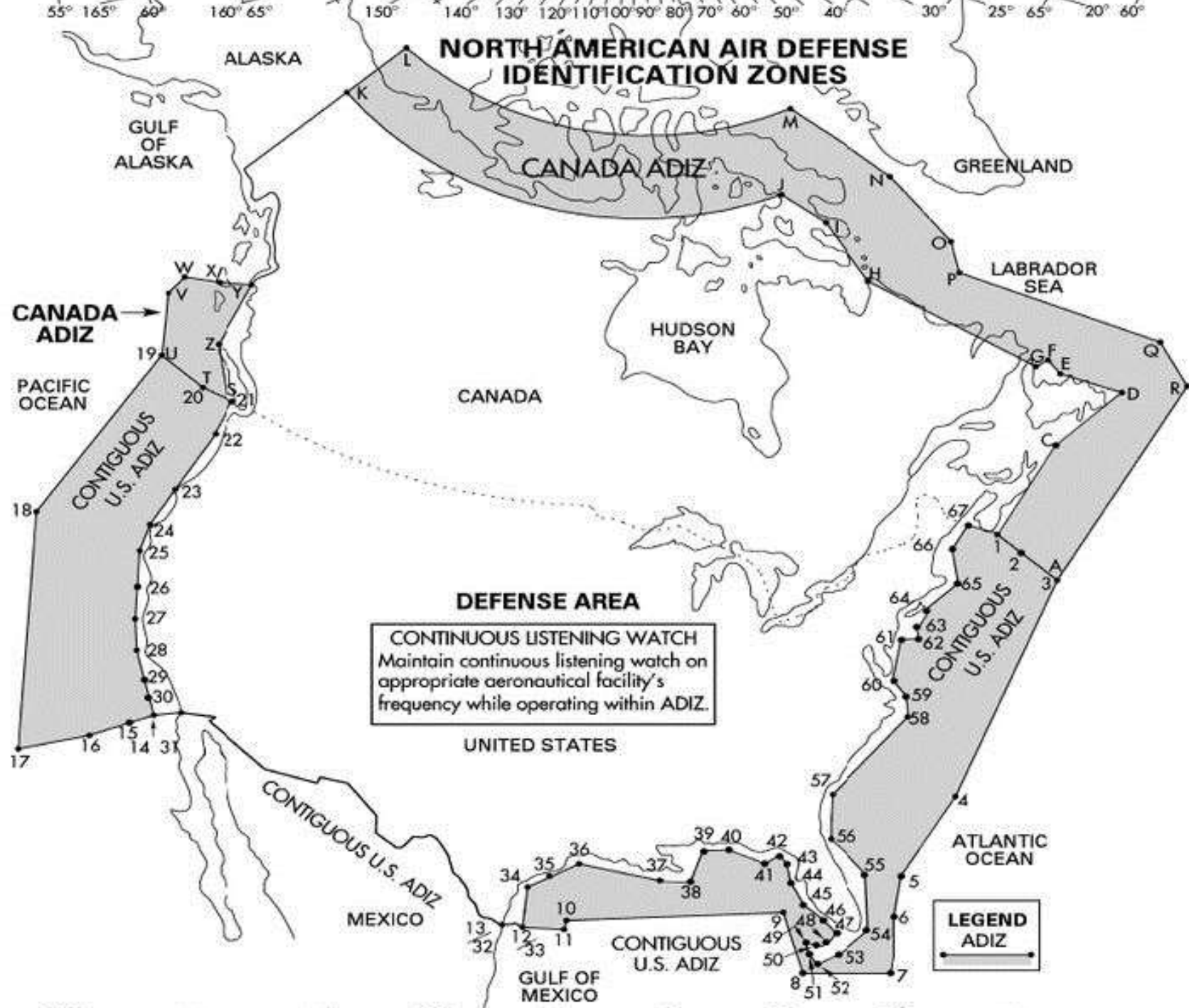
1950 US Law

- (1) that no person may operate **an aircraft in the zone or penetrate the zone** unless he has filed a flight plan with an appropriate aeronautical facility," and
- (2) that no pilot in command of **a foreign civil aircraft may enter the United States through the ADIZ's** unless he makes the reports required by the regulations or gives the position of the aircraft when it is not less than one hour nor more than two hours average direct cruising distance from the United States.

1951 Canadian Law

1. require filing of flight plans and enroute position reporting for any aircraft that will **operate within a coastal ADIZ**
2. are applicable to **military aircraft** as well as **civil aircraft**
3. expressly provide that "a violation of these Rules will render the pilot of an aircraft liable to **in-flight interception** by military interception aircraft"
4. **apply to all aircraft about to enter the ADIZ's**, so long as the path of flight is toward the continental land mass of Canada **regardless of whether or not the destination is Canada**

NORTH AMERICAN AIR DEFENSE IDENTIFICATION ZONES



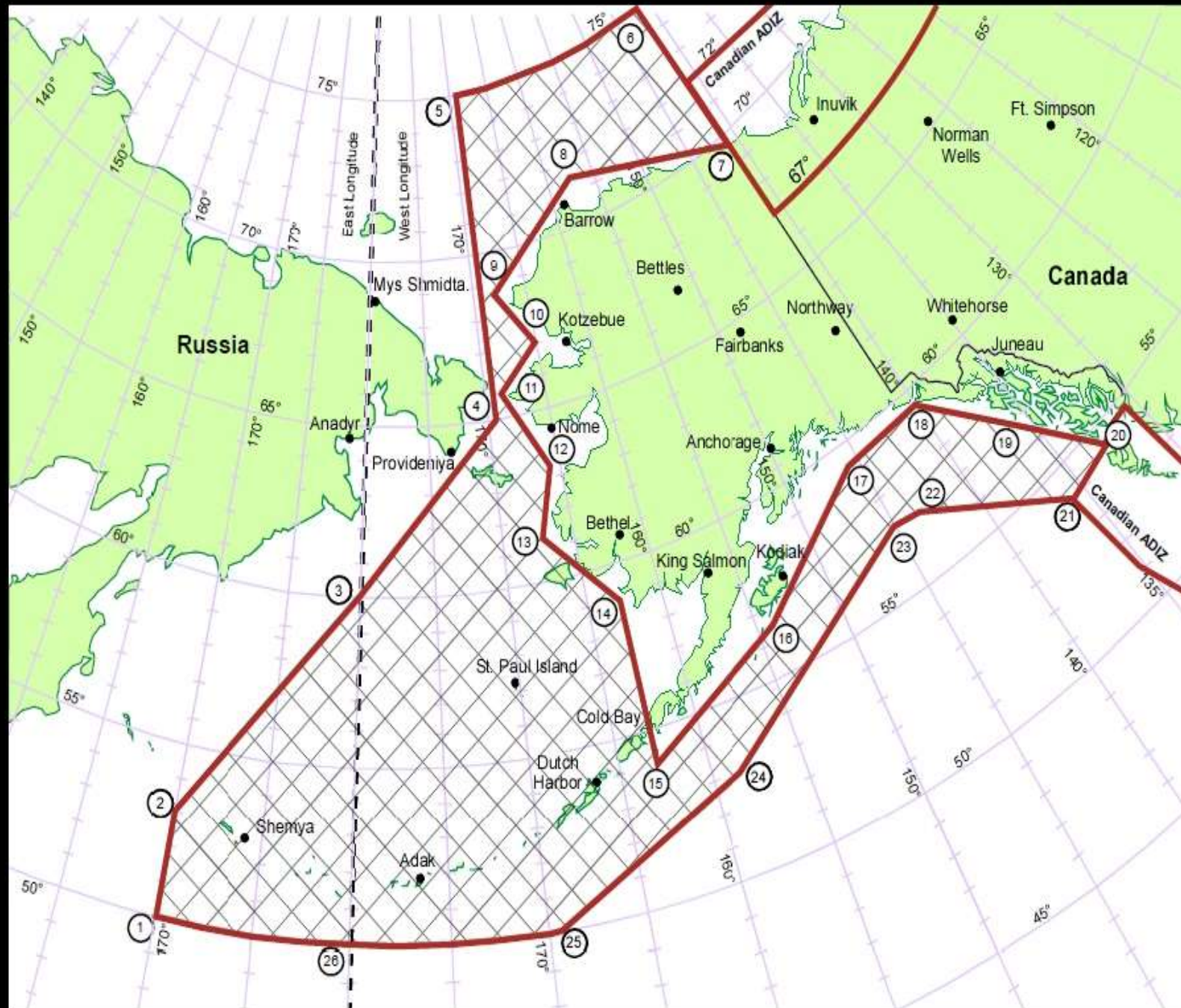
Alaska

Air Defense Identification Zone

Alaska ADIZ Points

1. 50 00N 170 00E
2. 53 00N 170 00E
3. 60 00N 180 00
4. 65 00N 169 00W
5. 75 00N 169 00W
6. 75 00N 141 00W
7. 69 50N 141 00W
8. 71 18N 156 44W
9. 68 40N 167 10W
10. 67 00N 165 00W
11. 65 40N 168 15W
12. 63 45N 165 30W
13. 61 20N 166 40W
14. 59 00N 163 00W
15. 54 00N 163 00W
16. 56 30N 154 00W
17. 59 20N 146 00W
18. 59 30N 140 00W
19. 57 00N 136 00W
20. 54 35N 133 00W
21. 54 00N 136 00W
22. 56 57N 144 00W
23. 57 00N 145 00W
24. 53 00N 158 00W
25. 50 00N 169 00W
26. 50 00N 180 00

Updated: Jan 1, 2009



Legal Basis for ADIZ ?

- The position of the United States is that the legal basis for ADIZ regulations is the right of a nation to establish **reasonable conditions of entry into its territory**.
- However, the ADIZ regulations of many States appear apply to any aircraft that enter its ADIZ
- Also, the actual practice of the United States may be apply the ADIZ regulations to all identified aircraft in their ADIZ
 - eg., *NORAD Intercept Procedures, Air Defense Identification Zone & Temporary Flight Restrictions*

US Aeronautical Information Manual - Official Guide to Basic Flight Information and ATC Procedures

CHAPTER 5. AIR TRAFFIC PROCEDURES, *Section 6. National Security and Interception Procedures*

- 5-6-1. National Security
- a. National security in the control of air traffic is governed by 14 CFR Part 99.
- b. All aircraft **entering domestic U.S. airspace** from points outside must provide for identification prior to entry. To facilitate early aircraft identification of all aircraft in the vicinity of U.S. and international airspace boundaries, Air Defense Identification Zones (ADIZ) have been established

US Aeronautical Information Manual

Operational requirements for aircraft operations associated with an ADIZ are as follows:

1. Flight Plan. Except as specified in subparagraphs d and e below, **an IFR or DVFR flight plan must be filed with an appropriate aeronautical facility as follows:**

- (a) **Generally, for all operations that enter an ADIZ.**
- (b) **For operations that will enter or exit the U.S. and which will operate into, within or across the Contiguous U.S. ADIZ regardless of true airspeed.**

State Practice in Asia

- **Japan** ADIZ, **Taiwan** ADIZ and **Korea** ADIZ established by the US after WWII and Korean War
- ADIZ were also established by US off the **Philippines** and off **South Vietnam** but they may no longer be active
- US recognizes ADIZ requirements of other States only if its planes intend to enter their airspace
- No consistent practice on provisions of ADIZ, including whether they apply to planes only passing through the ADIZ, when foreign aircraft will be intercepted, rules for interception, etc

Practical Utility in today's world?

- When the first zones were established in 1950, the primary concern was massive strategic nuclear attack by long-range bombers
- In today's world they may be useful only to those States fearful of regional wars involving the tactical use of aircraft
- As long as States feel compelled to intercept and identify otherwise unidentified aircraft approaching their shores, the zones have a certain utility in reducing the need for such interceptions, and thus in reducing the potential hazards involved in aerial interceptions

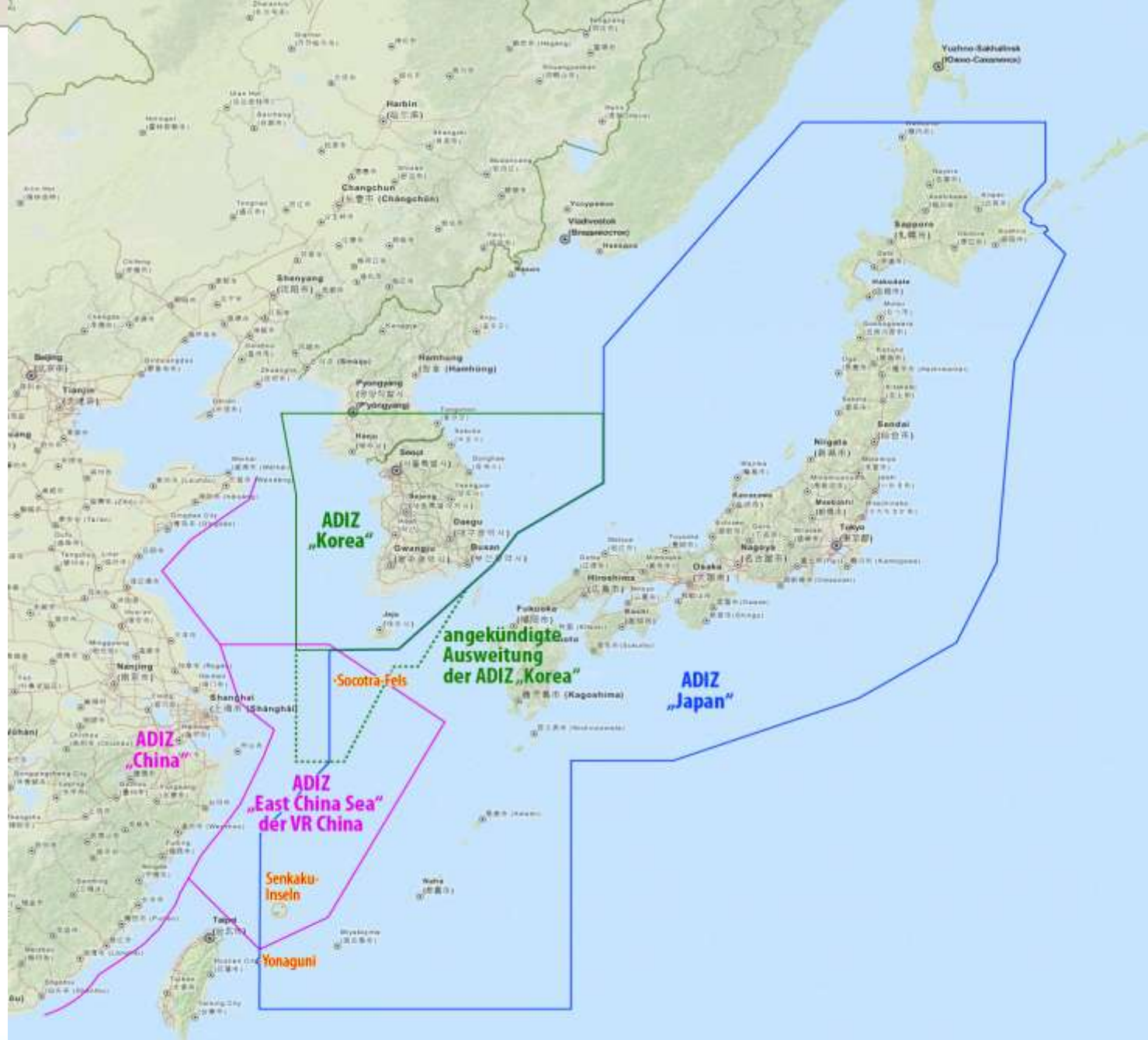
Part 3

Disputed “Geographic Features” inside Overlapping ADIZs

Recent State Practice on ADIZ

Recent State Practice with respect to ADIZ in East Asia:

1. In June 2010 **Japan** expanded its ADIZ so that it would include Yunaguni Island, creating an overlap with Taiwan's ADIZ – Taiwan protested, but no serious increase in tensions resulted
2. On 23 Nov 2013 **China** declared an ADIZ which created areas of overlap with ADIZs of Japan, Korea and Taiwan and included islands controlled by Japan but also claimed by China and Taiwan
3. On 15 Dec 2013 **Korea** expanded its ADIZ to create a larger area of overlap with the ADIZ of China, including a submerged feature which is the subject of a maritime dispute with China



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Air zone remapping



Senkaku / Diaoyu / Diaoyutai Islands

- Japan, China and Taiwan claim sovereignty over these uninhabited islands in the East China Sea
- They were under the control of Japan from 1895 to the end of World War II
- The islands were administered by the United States together with Okinawa from end of WWII until 1971, when administration was transferred to Japan
- China insists that Japan recognize that sovereignty over the islands is “disputed”, but Japan refuses to recognize that their sovereignty is in dispute



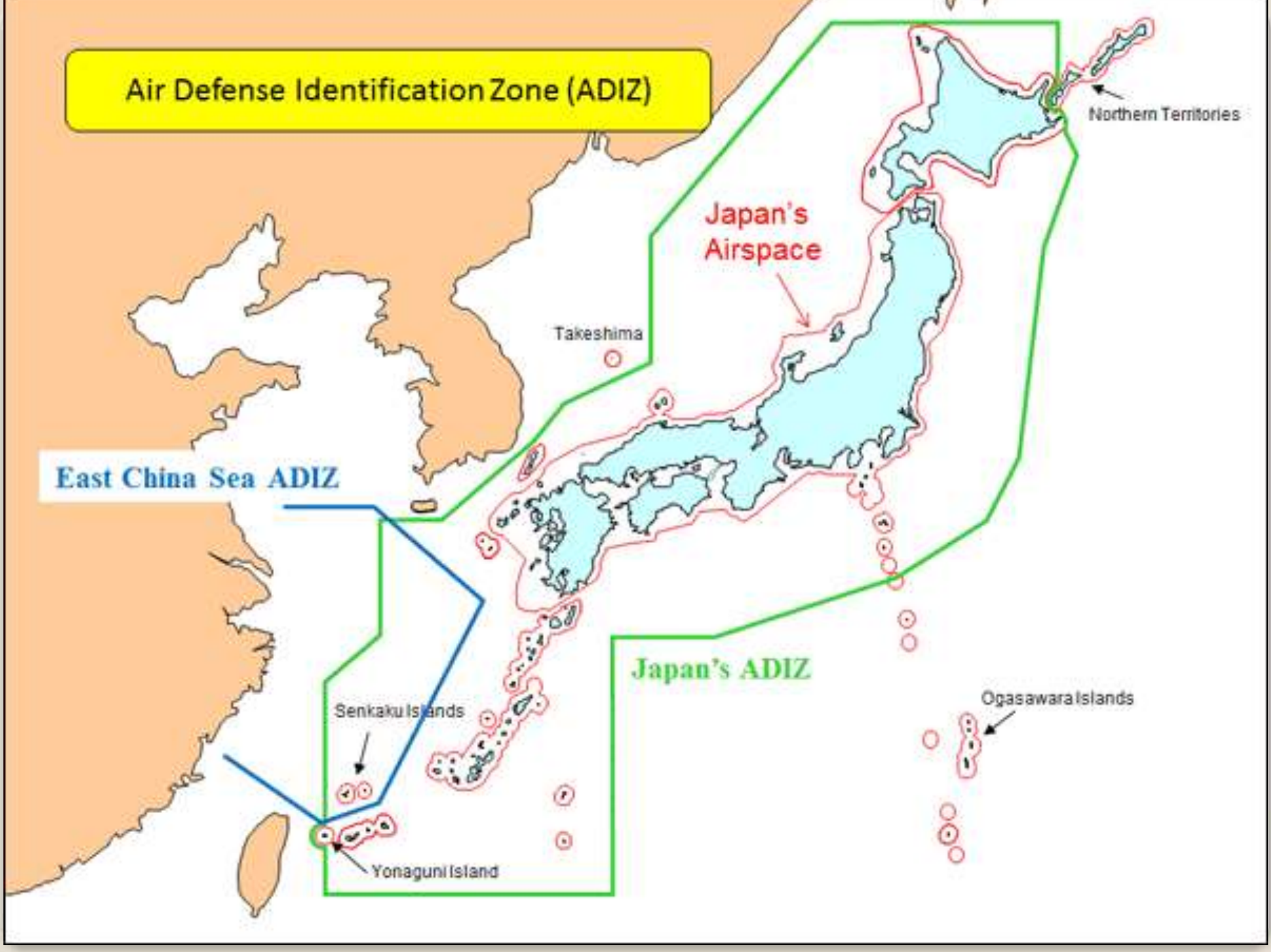
Senkaku (JPN)
Diaoyu (PRC)
Tiaoyutai (ROC)
Islands



Increase in Tensions

- There has been an increase in tension between Japan and China over the islands since the islands were “nationalized” by the Japanese Government in **2012**
- China has been sending State vessels into the waters surrounding the islands and has been flying over it
- Japan has scrambled fighters when Chinese planes fly near or over the islands
- The islands are with China’s 2013 ADIZ so they are now in an area of overlapping ADIZ claims

Air Defense Identification Zone (ADIZ)



**Japan's
Airspace**

Takeshima

Northern Territories

East China Sea ADIZ

Japan's ADIZ

Senkaku Islands

Ogasawara Islands

Yonaguni Island

Socotra Rock

- Socotra Rock is a **submerged rock** 4.6 metres (15 ft) below sea level (at low tide) located in the Yellow Sea
- Korea refers to it as **IEODO**
- China refers to it as **SUYAN Rock**
- It lies in the overlapping EEZ claims of the China & Korea
- Was within ADIZ of Japan prior to 2014
- As a result of China's ADIZ and extension of Korea's ADIZ, is now in overlapping ADIZ of China, Japan and Korea

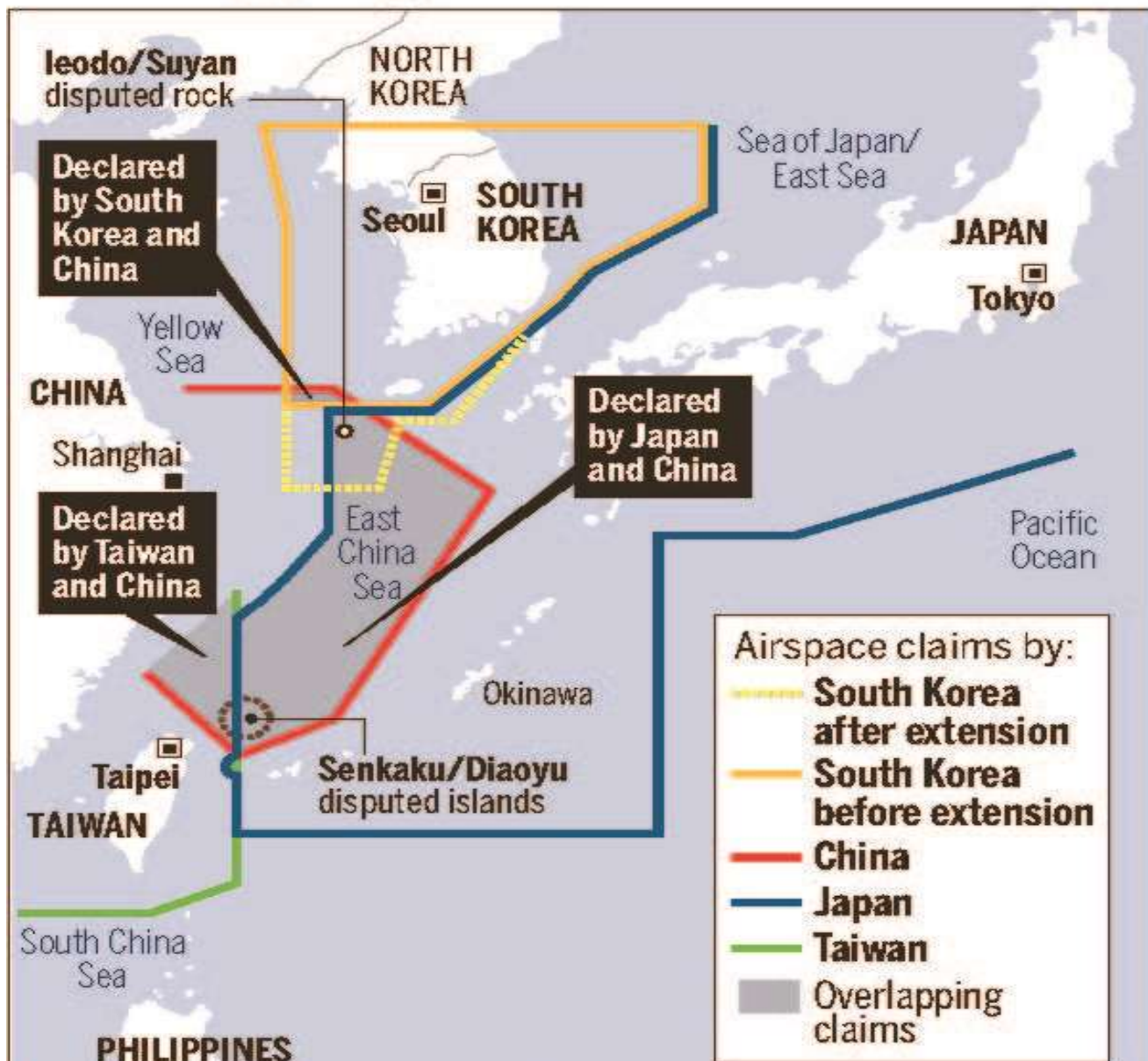


The map shows the submerged rock of Ieodo in the East China Sea. Despite being 136 kilometers closer to Korea's southwest island of Marado than to China, Beijing is ramping up claims to the reef.

/ Korea Times



Overlapping air defence zones



Sources: New York Times, AFP, South Korea Defence Ministry

Need for all States to Exercise Restraint in Overlapping ADIZs

It is not necessary for States to assertively “defend” the airspace above small uninhabited islands or totally submerged features that are the subject of a sovereignty or maritime dispute

1. China, Japan and Korea should negotiate practical measures to minimize the risk of an incident in areas of overlapping ADIZs
2. If the disputed feature is within an overlapping area of the ADIZs of two Claimant States, both States should agree that they will not react to any overflight by the other’s military planes
3. States should make it clear that their position regarding overflight is “without prejudice” to their sovereignty and maritime claims

Thanks for your Attention !

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