

## **The Legal Basis of the People's Republic of China's East China Sea Air Defense Identification Zone<sup>+</sup>**

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### **Abstract**

As the People's Republic of China defined its East China Sea Air Defense Identification Zone (ADIZ) on November 23, 2013, there were three legal decrees, the Law of the People's Republic of China on National Defense established on March 14, 1997, the Law of the People's Republic of China on Civil Aviation established on October 30, 1995, and the Basic Rules on Flight of the People's Republic of China established on July 27, 2001, which have been quoted as the legal basis to define the airspace within the area enclosed by China's outer limit of the territorial sea and another six geographical points specified by the statement as the PRC East China Sea ADIZ. Following the government statement, another announcement of the aircraft identification rules for the East China Sea Air Defense Identification Zone of the People's Republic of China was immediately issued by the PRC Ministry of National Defense. The purpose of this paper is to explore various key legal issues to ascertain the legal basis of this East China Sea ADIZ. Besides, the paper will further compare the air defense identification

zone with airspaces such as aerodrome flight airspace, airway, air route, prohibited area, restricted area and danger area as well as air corridor, fuel dumping area and temporary flight airspace defined by the previously mentioned PRC legal decrees in order to identify their differences and similarities. It may also be assessed by the factual consequences after establishing the air defense identification zone to decide whether treating the measures of defining air defense identification as the attempt of claiming sovereignty, expanding sovereign territory or sphere of influence, enlarging air defense region, increasing the coverage of air military activities or even using it to present national strength and establishing pride or to test the responses of other states around the disputed territories is eventually reasonable judgments or overstated speculations. This article will be concluded with a brief discussion on the matter of defining an air defense identification, and as with no international law to be the legal basis whether it may still need to adopt any domestic law as its legal basis.

**Keywords:** *air defense identification zone, territorial airspace, flight information region, sovereignty claim*

**JEL classification:** *F51, F52, F59, K33*

## 1. Introduction

A government statement was released by the Xinhua News Agency, as shown in Box 1, representing the PRC on establishing the East China Sea Air Defense Identification Zone on November 23, 2013. In its content, it has quoted the Law of the People's Republic of China on National Defense (March 14, 1997), the Law of the People's Republic of China on Civil Aviation (October 30, 1995) and the Basic Rules on

Flight of the People's Republic of China (July 27, 2001) as the basis to define an airspace within the area enclosed by China's outer limit of the territorial sea and the six geographical points noted by the statement as the East China Sea Air Defense Identification Zone.<sup>1</sup>

**Box 1** Statement by the Government of the People's Republic of China on Establishing the East China Sea Air Defense Identification Zone

Statement by the Government of the People's Republic of China on Establishing the East China Sea Air Defense Identification Zone

The government of the People's Republic of China announces the establishment of the East China Sea Air Defense Identification Zone in accordance with the Law of the People's Republic of China on National Defense (March 14, 1997), the Law of the People's Republic of China on Civil Aviation (October 30, 1995) and the Basic Rules on Flight of the People's Republic of China (July 27, 2001). The zone includes the airspace within the area enclosed by China's outer limit of the territorial sea and the following six points: 33°11'N (North Latitude) and 121°47'E (East Longitude), 33°11'N and 125°00'E, 31°00'N and 128°20'E, 25°38'N and 125°00'E, 24°45'N and 123°00'E, 26°44'N and 120°58'E.

Source: Xinhuanet, Statement by the Government of the People's Republic of China on Establishing the East China Sea Air Defense Identification Zone, 1000, November 23, 2013, [http://news.xinhuanet.com/english/china/2013-11/23/c\\_132911635.htm](http://news.xinhuanet.com/english/china/2013-11/23/c_132911635.htm), data acquired time: 1200, July 12, 2015.

As the Xinhua News Agency on behalf of the PRC released the government statement, a sketch map, as shown in Figure 1, was attached. It is not a part of the formal content of the People's Republic of China government statement.

**Figure 1** Sketch Map of the East China Sea Air Defense Identification Zone Attached by the Xinhua News Agency in Releasing the PRC Government Statement



Source: Same as Box 1

After the People's Republic of China released the abovementioned government statement, the Ministry of National Defense of the People's Republic of China, in accordance with the Statement by the Government of the People's Republic of China on Establishing the East China Sea

Air Defense Identification Zone, subsequently declared the Aircraft Identification Rules for the East China Sea Air Defense Identification Zone, as shown in Box 2, to regulate the details of the identification process applicable to aircrafts within the East China Sea Air Defense Identification Zone.

**Box 2** Announcement of the Aircraft Identification Rules for the East China Sea Air Defense Identification Zone of the People's Republic of China

Announcement of the Aircraft Identification Rules for the East China Sea Air Defense Identification Zone of the People's Republic of China

The Ministry of National Defense of the People's Republic of China, in accordance with the Statement by the Government of the People's Republic of China on Establishing the East China Sea Air Defense Identification Zone, now announces the Aircraft Identification Rules for the East China Sea Air Defense Identification Zone as follows:

First, aircraft flying in the East China Sea Air Defense Identification Zone must abide by these rules.

Second, aircraft flying in the East China Sea Air Defense Identification Zone must provide the following means of identification:

1. Flight plan identification. Aircraft flying in the East China Sea Air Defense Identification Zone should report the flight plans to the Ministry of Foreign Affairs of the People's Republic of China or the Civil Aviation Administration of China.

2. Radio identification. Aircraft flying in the East China Sea Air Defense Identification Zone must maintain the two-way radio communications, and respond in a timely and accurate manner to the identification inquiries from the administrative organ of the East China Sea Air Defense Identification Zone or the unit authorized by the organ.

3. Transponder identification. Aircraft flying in the East China Sea Air Defense Identification Zone, if equipped with the secondary

radar transponder, should keep the transponder working throughout the entire course.

4. Logo identification. Aircraft flying in the East China Sea Air Defense Identification Zone must clearly mark their nationalities and the logo of their registration identification in accordance with related international treaties.

Third, aircraft flying in the East China Sea Air Defense Identification Zone should follow the instructions of the administrative organ of the East China Sea Air Defense Identification Zone or the unit authorized by the organ. 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.

Fourth, the Ministry of National Defense of the People's Republic of China is the administrative organ of the East China Sea Air Defense Identification Zone.

Fifth, the Ministry of National Defense of the People's Republic of China is responsible for the explanation of these rules.

Sixth, these rules will come into force at 10 a.m. November 23, 2013.

Source: Xinhuanet, Announcement of the Aircraft Identification Rules for the East China Sea Air Defense Identification Zone of the P.R.C., November 23, 2013, [http://news.xinhuanet.com/english/china/2013-11/23/c\\_132911634.htm](http://news.xinhuanet.com/english/china/2013-11/23/c_132911634.htm), data acquired time: 1205, July 12, 2015.<sup>2</sup>

From the previous “Statement by the Government of the People’s Republic of China on Establishing the East China Sea Air Defense Identification Zone” we may well know that the PRC government adopted the Law of the People’s Republic of China on National Defense enacted on March 14, 1997, the Law of the People's Republic of China on Civil Aviation enacted on October 30, 1995 and the Basic Rules on Flight of the People’s Republic of China enacted on July 27, 2001, as the legal basis for defining the PRC East China Sea ADIZ for sure. Nonetheless, whether these legal decrees may specifically contain proper terms and texts unquestionably authorizing the government in Beijing to

define an air defense identification zone is indeed worth further study.

The paper may therefore individually scrutinize these three legal decrees in order to judge the validity of its edition, the governing jurisdiction, and inspect the substantial contents of these legal decrees by a three-level process of text identification, context examination and subtext interpretation. By so doing, it would attempt to grasp and understand the legality causation relationship between these judiciary decrees and the East China Sea ADIZ substantively defined by the PRC government in order to explore the following legal issues:

1. Is there any definition of the air defense identification zone specifically noted within the texts of these three legal decrees and does the appropriate authorization to define such airspace exist in their texts?
2. Can the jurisdiction based on the *ratione loci* principle noted by these decrees be sufficient to define such air defense identification zone?
3. Would the legal basis for the aircraft identification rules for the East China Sea Air Defense Identification Zone be sufficient?
4. Can these abovementioned decrees be the appropriate legal basis for the actions of defining the ADIZ and directing the identification rules?

Further, measures for other states to define their own air defense identification zone will also be compared and discussed in this paper.

This paper will further compare the air defense identification zone with airspaces such as aerodrome flight airspace, airway, air route, prohibited area, restricted area and danger area as well as air corridor, fuel dumping area and temporary flight airspace defined by the previously mentioned PRC legal decrees in order to identify their differences and similarities. It may also be assessed by the factual consequences after establishing the air defense identification zone to decide whether treating the measures of defining air defense identification as the attempt of claiming sovereignty, expanding sovereign territory or sphere of influence, enlarging air defense region,

increasing the coverage of air military activities or even using it to present national strength and establishing pride or to test responses of other states around the disputed territories is eventually reasonable judgments or overstated speculations. This article will be concluded with a brief discussion on the matter of defining an air defense identification, and as with no international law to be the legal basis whether it may still need to adopt any domestic law as its legal basis.

## **2. The Validity of Edition for the Legal Decrees and the Jurisdiction**

### ***2.1. The Validity of Edition for the Legal Decrees***

Before actually examining the contents of these three legal decrees, we should inspect whether their editions may still be valid. First, regarding the “Law of the People’s Republic of China on National Defense”, it was adopted at the Fifth Meeting of the Eighth National People’s Congress on March 14, 1997, and promulgated by Order No. 84 of the President of the People’s Republic of China on March 14, 1997, as well as enacted on the same day.<sup>3</sup>

This is basically consistent with the legal terms information with which the PRC defined the East China Sea Air Defense Identification Zone. Nonetheless, the content of Article 48 of this law was amended at the Tenth Meeting of the Standing Committee of the Eleventh National People’s Congress of the People’s Republic of China on August 27, 2009, by adopting a legislative decree known as the “Decision of the Standing Committee of the National People’s Congress on Amending Some Laws”.<sup>4</sup> It was subsequently promulgated and came into force on the date of promulgation by Order No. 18 of the President of the People’s Republic of China on the same day.<sup>5</sup>

According to Article 2 of the abovementioned the “Decision of the Standing Committee of the National People’s Congress on Amending



Some Laws”: *The provisions containing “expropriation” in the following laws and legal interpretations shall be amended.* Also by Paragraph 2 of the article, it is noted that: *The term “expropriation” in the following laws and legal interpretations shall be amended as “expropriation or requisition”.* Item 8 of Paragraph 2 therefore specifically addressed that the amendment is applied to Article 48 of the National Defense Law of the People’s Republic of China.<sup>6</sup> The valid edition of the PRC National Defense Law, if precisely correct, should be the one revised and promulgated after the amendment on August 27, 2009.

To examine another legal decree titled as the “Law of the People’s Republic of China on Civil Aviation” also noted by the PRC government statement with the same scheme, it can be confirmed that it was adopted at the Sixteenth Meeting of the Standing Committee of the Eighth National People’s Congress on October 30, 1995, and promulgated by Order No. 56 of the President of the People’s Republic of China on the same day. According to Article 214 of the Law, it came into effect as of March 1, 1996.<sup>7</sup>

In principle, this is basically consistent with the legal terms information with which the PRC defined the East China Sea Air Defense Identification Zone. Yet, the content of this law was also amended at the Tenth Meeting of the Standing Committee of the Eleventh National People’s Congress of the People’s Republic of China on August 27, 2009, by adopting a legislative decree known as the “Decision of the Standing Committee of the National People’s Congress on Amending Some Laws”.<sup>8</sup> Likewise, it was subsequently promulgated and came into force on the date of promulgation by Order No. 18 of the President of the People’s Republic of China on the same day.<sup>9</sup>

According to the previously mentioned “Decision of the Standing Committee of the National People’s Congress on Amending Some

Laws”, many terms of this legal decree were revised by this amendment document. First, Article 3 of this “Decision” already noted that: *Revisions shall be made to the provisions concerning criminal responsibilities in the following laws.* Consequently, Paragraph 1 of this article also addressed that: *The provisions of “in accordance with Article X of the Criminal Law” and “by reference to Article X of the Criminal Law” shall be revised as “in accordance with the relevant provisions of the Criminal Law”.* Item 38 of this article therefore explicitly indicated that it may be applied to Article 194, 196, 198 and 199 of the “Law of the People’s Republic of China on Civil Aviation”.<sup>10</sup>

Further, according to Article 3 of the aforesaid “Decision”, it is noted that: *Revisions shall be made to the provisions concerning criminal responsibilities in the following laws.* Also, in Paragraph 2 of this article, it is also specified that: *The provisions of the decisions concerning punishment of crimes which are incorporated into the criminal law yet repealed that are quoted in the following laws shall be revised as “in accordance with the relevant provisions of the criminal law”.* Item 47 of this article therefore specifically indicated that it may be applied to Article 191 of the “Law of the People’s Republic of China on Civil Aviation”.

In addition, based on Article 3 of the “Decision”, it was noted that: *Revisions shall be made to the provisions concerning criminal responsibilities in the following laws.* Also, it was explicitly addressed that: *Revisions shall be made to the specific provisions on prosecution for criminal responsibilities in the following laws.* Subsequently, Item 56 of the article regulated that: *Article 192 of the Civil Aviation Law of the People’s Republic of China shall be revised as: “Any individual who uses force on the persons aboard a civil aircraft in flight which imperils air safety shall be prosecuted for criminal responsibilities in accordance with the relevant provisions of the criminal law”.*

Moreover, Paragraph 1 of Article 193 shall be revised as: *“Any individual who carries explosives, detonators or hazardous substances in a concealed way boarding on a civil aircraft, or consigns transport of dangerous cargoes in the name of non-dangerous items in violation of provisions herein shall be prosecuted for criminal responsibilities in accordance with the relevant provisions of the criminal law”*. Likewise, Paragraph 3 of the same article shall be revised as: *“Any individual who carries firearms, ammunition and controlled knives in a concealed way in boarding on a civil aircraft shall be prosecuted for criminal responsibilities in accordance with the relevant provisions of the criminal law”*.

Similarly, Article 195 shall be revised as: *“Any individual who intentionally places or instigates others to place hazardous articles on civil aircraft in use enough to destroy the aircraft and imperil air safety shall be prosecuted for criminal responsibilities in accordance with the relevant provisions of the criminal law”*. And Article 197 shall be revised as: *“Any individual who steals or intentionally damages or destroys or moves aviation equipment in use which endangers air safety and is enough to cause falling or wrecking of the civil aircraft shall be prosecuted for criminal responsibilities in accordance with the relevant provisions of the criminal law”*.

Finally, according to Article 4 of the “Decision”, it is noted that: *Revisions shall be made to the provisions concerning security administration punishment in the following laws and decisions on the relevant legal issues*. And in Paragraph 1 of this article, it was explicitly expressed that: *The “regulations on security administration punishments” quoted in the following laws and decisions concerning the relevant legal issues shall be revised as “law on security administration punishments”*. Also, in Item 70 of this article, it is clearly indicated that it may be applied to Article 200 of the “Law of the People’s Republic of

China on Civil Aviation”. Based on those legal terms unambiguously noted by the previously mentioned “Decision”, to be precisely accurate, the current valid edition of this law should also be the one revised and promulgated after the amendment on August 27, 2009.

If the same principle for examining the valid date of the previously noted “National Defense Law of the People’s Republic of China” and “Law of the People’s Republic of China on Civil Aviation” is adopted to inspect the third legal decree, the Basic Rules on Flight of the People’s Republic of China, addressed by the PRC government statement as defining the East China Sea ADIZ, it may reveal that the suitability of the version for this regulation can be even more controversial.

From various information sources,<sup>11</sup> we may conclude that an initial edition of the “General Flight Rules of the People’s Republic of China” was promulgated by the Order of the State Council of the People’s Republic of China and the Central Military Commission of the People’s Republic of China No. 288 on July 24, 2000, after completing a significant revision on the ruling document with the same name originally jointly issued by the PRC State Council and the Central Military Commission on April 21, 1977.<sup>12</sup> It has been further firstly revised in accordance with the “Decision of the State Council and the Central Military Commission on Amending the General Flight Rules of the People’s Republic of China” on July 27, 2001, and promulgated by the Order of the State Council of the People’s Republic of China, the Central Military Commission of the People’s Republic of China No. 312. According to text of Article 124 of the 2001 edition “General Flight Rules of the People’s Republic of China”: *These Rules shall come into force as of zero hour August 1, 2001.*<sup>13</sup> Subsequently, the second-time revision was settled with the same titled “Decision of the State Council and the Central Military Commission on Amending the General Flight Rules of the People’s Republic of China” on October 18, 2007, and

promulgated on the same day by the Order of the State Council of the People's Republic of China, the Central Military Commission of the People's Republic of China No. 509. The revised general flight rules took effect on November 22, 2007, as directed by this order.<sup>14</sup>

From the facts addressed above, we may prove that the "General Flight Rules of the People's Republic of China" adopted by the PRC government statement for defining the East China Sea ADIZ was neither the initial edition as the two previously mentioned legal decrees, nor the nearest and current valid edition. The legitimacy and legality of this legal decree therefore is indeed questionable. In adopting any legal decree as the legal basis of a political statement, it is necessary to note its revision history in order to let the audiences to apprehend that it is the nearest and current valid version in order to satisfy the basic requirement of presenting any legal statement. Those articles that have been revised might not be necessarily relevant to the issues stated, yet, for the act of adopting legal decrees, it should be strictly accurate. Otherwise, as these details are questioned and challenged by other parties, the authority and professionalism of the government statement will be naturally undermined. Particularly for the third legal decree, its effective date was neither the date of revision or date of taking effect for the initial edition nor the date of the nearest edition. Although it was consistent with the incorrect edition shown by the official website of the PRC governing authority, Civil Aviation Administration of China,<sup>15</sup> it may only indicate making the same mistake and still being unable to justify the existing fallacy.

## ***2.2. The Coverage of the Jurisdiction***

We may first examine the territories covered by the jurisdiction noted in the "Law of the People's Republic of China on National Defense".

Principally, this legal decree does not specifically define the geographical coverage of its jurisdiction. Nevertheless, as in its Chapter 4 addressing “Defense of the Frontiers, Seas and Air Space”, contents of Article 26 does precisely note with texts such as “territorial land, inland waters, territorial seas and territorial air space”. Further, at the end of this article, it also mentions terms like “safeguard the maritime rights and interests of the country”,<sup>16</sup> which may extend its territories involved further externally. Nonetheless, it is by no means a solid basis to indicate that its jurisdiction may also extend outwardly by so addressing.

On the other hand, if judging from Article 8 of Chapter 1 “General Provisions” in this legal decree, *The People’s Republic of China, in its military relations with other countries, safeguards world peace and opposes acts of aggression and expansion*, and Article 66 of Chapter 11 “Foreign Military Relations” in the same law, *The People’s Republic of China supports the world community in its military-related actions taken for the benefit of safeguarding world and regional peace, security and stability and supports it in its efforts to impartially and reasonably resolve international disputes and its efforts for arms control and disarmament*, then the geographical sphere for taking actions according to this legal decree may reach all places in the world. Nonetheless, it is by no means implying that its jurisdiction may also extend to worldwide coverage accordingly. Regardless of any terms regarding the jurisdiction coverage within the texts noted above, none of them may be relevant to defining an air defense identification zone. Even for those matters regarding the efforts of air defense, its coverage is still limited to the territorial airspace, which is very different from the airspace defined by the air defense identification zone.

By further securitizing the geographical coverage of the jurisdiction noted by the “Civil Aviation Law of the People’s Republic of China”, based on Article 1 of Chapter 1 “General Principles” of the law, *This law*

*has been formulated to safeguard the national sovereign right over the territorial sky and the right of civil aviation, ensure the safe and orderly operation of civil aviation, protect the legitimate rights and interests of the parties involved in civil aviation, and promote the development of civil aviation, and Article 2, The air space above the territorial land and waters of the People's Republic of China (PRC) is the territorial sky of PRC, which enjoys complete and exclusive sovereignty over its airspace, we may principally confirm that its geographical jurisdiction is applied to its territorial airspace. Moreover, from all those regulations on the civil airports within its own territory noted in Chapter 6 "Civil Airport" of the law, then its jurisdiction may of course cover all civil airports. If judging from all articles of Paragraph 1 "Airspace Control" of Chapter 7 "Aerial Navigation" and the partial texts of Article 76 of Paragraph 2 "Flight Control" in the same chapter, ... Aircraft flying over PRC territories must follow the unitary flight rules ..., as well as Article 81, Civil aircraft should not fly out of PRC airspace without permission. The departments concerned have the right to take necessary measures according to circumstances to stop the aircraft flying out of PRC airspace without permission, we may further confirm that its jurisdiction is indeed limited to the territorial airspace.*

Particularly, as noted by Article 173 of Chapter 13 titled "Special Provisions for Foreign Civil Aircraft" in this law, *The operation of civil aviation by foreign nationals using foreign civil aircraft inside PRC territories should be undertaken in accordance with provisions in this chapter as well as other relevant provisions in this law where this chapter does not cover*, and many other articles subsequently listed within the chapter all noted with terms like "inside PRC territories" and "PRC territorial air", we may further specifically confirm the jurisdiction coverage of the law. Conversely, the "search and rescue zone of PRC" noted by the text of Article 182, *The owner or country of registration of*

*foreign civil aircraft should have the approval of CAA or act in accordance with the agreement between the two governments in the search and rescue of aircraft in distress in the search and rescue zone of PRC, is based on the “Provision of the People’s Republic of China on Search and Rescue of Civil Aircraft” that was approved by the State Council on December 8, 1992, and promulgated by Decree No. 29 of the Civil Aviation Administration of China on December 28, 1992. According to Article 6 of Chapter 1 of this administrative regulation, The Civil Aviation Search and Rescue Area of the People’s Republic of China covers the territory of the People’s Republic of China and such portion of the high seas where China shall undertake search and rescue operations as stipulated in the international treaties concluded or acceded to by the People’s Republic of China. The Civil Aviation Search and Rescue Area shall be divided into several regional civil aviation search and rescue areas, the delineation of which shall be published by CAAC, it can be understood that as applying this law beyond the PRC territories, its practices will be directed by certain international treaties and can never be exclusively decided by the PRC authorities.*

As for the objectives applicable for the law, from the text noted by Article 5 of Chapter 2 “Nationality of Civil Aircraft” of this law, *Civil aircraft mentioned in this law refer to aircraft other than those used for flying mission of military, customs and police operations*,<sup>17</sup> we may confirm that aircrafts serving military, customs and constabulary missions will be excluded from the jurisdiction of this law. If further referring to Article 91 of Chapter 8 “Public Air Transportation Enterprises” of the law, *A public air transport enterprise refers to a corporate enterprise which uses civil aircraft for the transport of passengers, baggage, postal matter and cargoes for the purpose of profit-making*, Article 106 of Chapter 9 “Public Air Transportation” of the same law, *The provisions in this chapter are applicable to the*



*transport of passengers, baggage and cargoes by civil aircraft undertaken by airlines, including free transit. The provisions do not apply to mail transit by civil aircraft. The provisions are applicable to that part of multimodal transport which concerns air transportation, Article 107, Domestic air transport mentioned in this law refers to the contracted air transport whose places of departure, prearranged stopover and destination are all inside PRC territories. International air transport mentioned in this law refers to the contracted transport, with or without stopover or transshipment, whose place of departure or destination, or one of the prearranged stopovers is not inside PRC territories, as well as Article 145 of Chapter 10 “General-Purpose Aviation” of the law, General-purpose aviation refers to civil aviation by means of civil aircraft other than public air transportation. Such aviation includes professional flights for industrial, agricultural, forestry, fishery, architectural, medical, rescue, relief, meteorological, observation, ocean monitoring, scientific research and experiment, educational training and cultural and sports purposes, we may well understand the objectives applicable to the law. The term of “the third party” is unquestionably noted in the texts of the law. Regardless of the matters and excuses for causing infringement or damage to the third party, it may certainly be applicable to this law.*

After reviewing the applicable coverage and objectives of the “Civil Aviation Law of the People’s Republic of China”, we subsequently inspect the geographical jurisdiction and governing objectives of the “General Flight Rules of the People’s Republic of China”. According to Article 1 of Chapter 1 “General Provisions” of this legal regulation, *These Rules are formulated with a view to safeguarding the sovereignty of territorial airspace of the State, standardizing the flight activities within the territory of the People’s Republic of China and ensuring the safe and orderly conduct of the flight activities, it is specifically noted*

that the geographical coverage for applying this regulation is only within the territory of the People's Republic of China. And the content of Article 2, *All units and individuals with aircraft under their charge and all flight-related persons and their flight activities shall abide by these Rules*, on the other hand specifies the objectives within the jurisdiction of this regulation. As we are considering the jurisdiction of this regulation, it naturally needs to satisfy both terms mentioned above in order to assure a sufficient jurisdiction.

Reviewing the contents of Article 11 to Article 27 of Chapter 2 "Airspace Management" in this regulation reveals that the flying areas defined by this regulation are all located within the territory of the People's Republic of China except the international airways noted by Article 15. This is basically consistent with the geographical coverage of jurisdiction addressed by Article 1 of Chapter 1 "General Provisions". Nonetheless, based on the partial content noted by Article 35 of Chapter 3 "Flight Control" of this regulation, ... *For aircraft approved to fly into or out of the territorial airspace of the People's Republic of China, their flights into or out of the territorial airspace of the People's Republic of China or their flights across flight control areas shall be subject to approval by the Air Force of the People's Liberation Army; ...*, the jurisdiction coverage is essentially extended by this application and approval procedure to those units and individuals with aircrafts under their charge that ever apply for the permissions of the PRC authorities. It is particularly necessary to remind that the jurisdiction only covers those aircrafts applying for permission to depart from or enter the PRC territorial airspace. By the criterion of geographical jurisdiction or the standard of *ratione loci*, it should not be interpreted as an expansion.

In addition, as referring to the contents of Chapter 3 "Flight Control", Chapter 4 "Operations within Aerodrome Areas", Chapter 5 "Operations on Airways and Air Routes", Chapter 6 "Flight Separation",

Chapter 7 “Flight Command”, Chapter 8 “Handling of Special Situations in Flight”, and Chapter 9 “Support of Communication, Navigation, Radar, Meteorology and Aeronautical Information”, all matters regulated by this legal decree are limited within its own territory except contents noted by Article 102, *When a military aircraft is in distress, the relevant department shall make a prompt report to the local government and garrison. The local government and garrison shall immediately take actions to conduct search-and-rescue operations. When the operations of searching and rescuing the distressed aircraft are conducted over waters, a report shall also be made to the national maritime search and rescue organization and the adjacent maritime search and rescue organization, which shall be alerted for prompt actions in the conduct of search-and-rescue operations. When a civil aircraft is in distress, the search-and-rescue operations shall be conducted in accordance with the relevant provisions of the State*, and Article 103, *When an aircraft is in distress outside the territory of the People's Republic of China, the internationally accepted distress signals and frequencies shall be applied. Where a distress situation takes place over waters during flight operations, 500 kilohertz-frequency shall also be used for the transmission of distress signals if its radio equipment permits*. However, as observing from the contents of these two articles, it obviously and fully respects the international norms and never requests exclusive jurisdiction. It also specifically addresses the joint effort together with other parties in the texts.

Further, by the contents in Chapter 10 “Special Provisions Governing Foreign Aircraft” of this legal decree, all the regulations noted from Article 112 to Article 115 on the foreign aircrafts are only relevant to their departure and entry through the PRC territory and territorial airspace. By the criteria of *ratione loci*, it is indeed completely consistent with the overall defined coverage of this regulation. As for the

texts in Chapter 12 “Legal Liability” they are specifically addressed on the objectives under its jurisdiction and never associated with the geographical jurisdiction. Moreover, objectives under its jurisdiction are also principally identical to the ones defined by Article 2 of this regulation. As for Article 121 of Chapter 12 “Supplementary Provisions” of this regulation, *In regard to the aircraft of the People’s Republic of China operating over the contiguous zones, exclusive economic zones or high seas beyond the territorial waters of the People’s Republic of China, where the provisions of an international treaty concluded or acceded to by the People’s Republic of China are different from the provisions of these Rules, the provisions of that international treaty shall apply, except the provisions for which reservation has been declared by the People’s Republic of China*, although it has seemingly extended the geographical jurisdiction out of its territorial waters and to cover the airspaces above the contiguous zones, exclusive economic zones and high seas, the objectives are obviously only applied on the aircrafts with the PRC nationality. It also never definitely excludes the jurisdiction on the aircrafts of its nationality according to the international treaties. Nonetheless, we may firmly confirm that it may not have any jurisdiction on foreign aircrafts in the airspaces out of its territorial waters.

Lastly, we may inspect the texts of Article 122, *The signals used in the interception of aircraft violating these Rules and the response signals by the intercepted aircraft shall be in compliance with the provisions in Appendix III to these Rules*. Appendix III of this regulation is “The Maneuvers and Signals for Intercepting Aircraft and Intercepted Aircraft”. As we refer to Article 29 of Chapter 3 “Flight Control” of this regulation, *The basic tasks of flight control are: (1) supervising aircraft in strict adherence to their approved flight plans, maintaining order of flights, and preventing unapproved flights of aircraft; (2) preventing*

*unapproved entries of aircraft into prohibited areas, temporary prohibited areas and unapproved entering or leaving the national border (frontier); (3) preventing collision between aircraft or their crash onto ground obstacles; and (4) preventing inadvertent firings at aircraft by ground-to-air weapons or devices, and the texts of Article 37. For any unapproved takeoff or liftoff of an aircraft, the relevant unit shall find out the causes immediately and take necessary measures up to the extent of forcing it to land, apparently, its geographical jurisdiction should be limited to the airspaces within its territory and territorial air.*

### **2.3. Text Identification, Context Examination and Subtext Interpretation**

After inspecting the three legal decrees adopted by the PRC government statement for defining the East China Sea Air Defense Identification Zone, we may discover that the suitability of the valid editions, geographical jurisdiction and objectives under governance jurisdiction, in terms of adopting as the legal foundation for defining the East China Sea Air Defense Identification Zone, was indeed never properly authorized. If we further compare the wordings and terms applied, it is even harder to verify any causation linkage relationship for legal authorization.<sup>18</sup> First, for the terminology of air defense identification zone itself, it is never explicitly mentioned by any of these three legal decrees. Therefore, there has been no standard legal definition of this jargon in these legal regulations.

Second, as we review the announcement released by the PRC Defense Ministry for aircraft identification rules, the identification methods, for instance, the flight plan, has never been mentioned in the text of the “Law of the People’s Republic of China on National Defense”. This term is noted by Article 167 and Article 178 of the “Law

of the People's Republic of China on Civil Aviation" for three times,<sup>19</sup> but their significance is totally irrelevant to providing flight plan for identification within the air defense identification zone. The term of flight plan has been twice mentioned by the "General Flight Rules of the People's Republic of China" in Article 39 and Article 90,<sup>20</sup> but likewise, they are completely unrelated to the identification process within the air defense identification zone.

Further, from the radio identification scheme requested by the PRC Defense Ministry announcement, the term is never mentioned in the text of the "Law of the People's Republic of China on National Defense". The term of radio has been noted in total for eight times in the texts of Article 10, Article 88 and Article 90 of the "Law of the People's Republic of China on Civil Aviation".<sup>21</sup> Nonetheless, they are all irrelevant to the request of radio identification noted by the Defense Ministry announcement, either. Yet, in the texts of Article 48, 57, 60, 87, 95, 101 and 105 of the "General Flight Rules of the People's Republic of China", the term of radio are in total noted for 13 times but none of them is specifically addressed on the usage for identification. Only the partial content of Article 48, *The crew members shall, from engine start before takeoff to engine shutdown after landing, keep radio communication contact with the air traffic controller or flight commander and strictly observe the communication discipline ...*, is barely similar to the contents of radio identification requirement addressed by the announcement, *Aircraft flying in the East China Sea Air Defense Identification Zone must maintain the two-way radio communications, and respond in a timely and accurate manner to the identification inquiries from the administrative organ of the East China Sea Air Defense Identification Zone or the unit authorized by the organ*. However, the party assigned for communication noted by the "General Flight Rules of the People's Republic of China" is "air traffic controller

or flight commander”, which is obviously different from the “administrative organ of the East China Sea Air Defense Identification Zone or the unit authorized by the organ”.

In addition, as reviewing the text of announcement regarding the paragraph of transponder identification, *Aircraft flying in the East China Sea Air Defense Identification Zone, if equipped with the secondary radar transponder, should keep the transponder working throughout the entire course*, and comparing all the articles of the “Law of the People’s Republic of China on National Defense”, we may notice that the terms of secondary radar and transponder have never been mentioned, not even the term of radar. As for the content of the “Law of the People’s Republic of China on Civil Aviation”, the term of radar has never been noted, either. On the other hand, the term of radar is noted by Article 12, 40, 96, 104, 107 and 108 of the “General Flight Rules of the People’s Republic of China” for 15 times, but the terms of secondary radar and transponder have never been mentioned. Moreover, the substantial contents of these articles aforesaid are entirely irrelevant to the identification function.

Finally, we may examine the request for logo identification. As comparing the original text noted by the PRC Defense Ministry announcement, *Aircraft flying in the East China Sea Air Defense Identification Zone must clearly mark their nationalities and the logo of their registration identification in accordance with related international treaties*, with the texts of the “Law of the People’s Republic of China on National Defense”, no term regarding logo has ever been noted in the text of the law. As for the “Law of the People’s Republic of China on Civil Aviation”, terms with the significance regarding either logo or sign are noted in Article 8, 58, 61 and 85 in total for five times. Nonetheless, only the content of Article 8, *Having obtained the PRC nationality according to law, the civil aircraft should be marked with the nationality*

*and registration signs*, may somehow be relevant to the announcement. Yet, it is in essence very different from the instruction of logo identification as requested by the East China Sea ADIZ announcement. Similar terms are noted in Article 24, 41 and 47 of the “General Flight Rules of the People’s Republic of China” for six times. However, contents in Article 24 and 47 are entirely irrelevant to any sign of aircraft.<sup>22</sup> As for the text of Article 41, *Aircraft operating within the territory of the People’s Republic of China shall bear distinct identification marks. Aircraft without identification marks are forbidden such flight. Aircraft without identification marks shall, when in need of such flight due to special circumstances, be subject to approval by the Air Force of the People’s Liberation Army. The identification marks of aircraft shall be subject to approval in accordance with the relevant provisions of the State*, it is seemingly close to the announcement. Nevertheless, it is necessary to notice that the airspace governing by the article is nothing else but the territorial airspace of the People’s Republic of China. We therefore may understand, according to the coverage of the geographical jurisdiction, that it is fundamentally unrelated to any request of the ADIZ announcement.

After having summarized all the legal factors discussed in this section, we may conclude that it is indeed hard to construct the judiciary causation relationship between terms noted by these three legal decrees and the action of defining such an air defense identification zone as addressed by the government statement for the People’s Republic of China establishing the East China Sea ADIZ. Further, as for the identification measures demanded by the PRC Defense Ministry, after comparing the regulations noted in the articles of these three legal decrees, many inconsistencies are also exposed. It is hard for us to identify any legal causation relevance that may mutually exist as adopting these three PRC internal legal decrees to be the legal basis for



establishing the East China Sea ADIZ and requesting that all the aircrafts entering this airspace should apply for the identification measures.

### **3. Discussing Each Defined Aviation Airspace**

Although the previous analysis has already obviously proved that there is no term of the air defense identification zone which had ever been specifically defined by the three decrees adopted by the People's Republic of China as the legal basis for defining the East China Sea ADIZ, all the aviation airspaces ever listed by these three legal decrees will still be elaborated in this section in order to let the readers understand that these decrees are entirely irrelevant to any air defense identification zone. First, as for the "Law of the People's Republic of China on National Defense", it has mentioned the term of territorial airspace twice in its Article 26. Apart from this, no other airspace has been mentioned in the whole text. Apparently, the territorial airspace is very different from the air defense identification zone. For the "Law of the People's Republic of China on Civil Aviation", in Article 78, *Civil aircraft should not fly into the restricted airspace except with special permission by State regulations, or fly into the controlled airspace except in observation of the restrictive conditions specified in regulations. The above mentioned restricted and controlled airspaces are to be specified according to State regulations*, the terms of "restricted airspace" and "controlled airspace" are noted but with no specific definition of these terms. The term of "the search and rescue zone" is of course noted in its Article 182. Nonetheless, it is not purely an airspace. This law also has a specific chapter titled as "Airspace Control"; again, several principles are listed in this chapter but no definition of any airspace has ever been explicitly noted. Likewise, in the specific chapter for "Flight Control", a term called "controlled

airspace zone” has been noted, but still no specific definition has ever existed. In summary, all the previously noted airspaces can be understandably clarified to be different from the air defense identification zone.

As for the “General Flight Rules of the People’s Republic of China”, in Article 12 of Chapter 2 “Airspace Management”, it is noted that the airspace is usually divided into aerodrome flight airspace, airways, air routes, prohibited areas, restricted areas and danger areas. It is also addressed that air corridors, fuel dumping areas and temporary flight airspace may be established when necessary for the need of airspace management and flight missions.<sup>23</sup> It is further defined by Article 14 that: *Normally aerodrome flight airspace includes such flight airspace as flying techniques (aerobatic, formation, instrument) flight airspace, scientific research test flight airspace, firing flight airspace, low-level flight airspace, super-low-level flight airspace, aeromarine flight airspace, nighttime flight airspace and holding airspace.* Moreover, airspace and level such as holding airspace and lowest holding level are also defined by the same article.<sup>24</sup> Subsequently, definitions of airway and air route are separately defined by Article 15 and Article 16 accordingly. Definitions of prohibited areas, temporary prohibited areas, restricted areas and temporary restricted areas are specified by Article 17 and Article 18. Danger areas and temporary danger areas are defined by Article 19. Air corridors and fuel dumping areas are regulated by Article 21 and Article 22. Finally, the code for establishing any temporary flight airspace is noted in Article 23.

In addition to those aforesaid airspaces, Article 30 of Chapter 3 “Flight Control” in this regulation, *Within the territory of the People’s Republic of China, flight control areas, flight control sub-areas and aerodrome flight control areas shall be established according to their respective responsibilities of flight control. High altitude control areas,*

*medium and low altitude control areas, terminal (approach) control areas and/or aerodrome tower control areas shall be established in areas of airways and air routes and/or in civil aerodrome areas. Flight information areas shall be established over the territory of the People's Republic of China, its contiguous zones, its exclusive economic zones and the high seas adjacent to it,* is noted with various control areas and the flight information area, which is the airspace most highly possible to be confused with the air defense identification zone. Nonetheless, based on the definitions and descriptions of the flight information area noted in Article 85 to 88 of Paragraph 1 “Flight Information Area” in Chapter 4 “Airspace” of the “Administrative Rules on Air Traffic of China’s Civil Aviation” established by the Civil Aviation Administration of China,<sup>25</sup> it is clearly indicated that such flight information areas should be identical to those airspaces defined by the International Civil Aviation Organization<sup>26</sup> and known by the other side of the Taiwan Strait as the Flight Information Region and other Chinese translated terms.<sup>27</sup> We therefore can naturally confirm that it is completely different from the air defense identification zone. Last but not least, two special aviation zones known as transition level and terminal control are particularly defined by Article 123 of this regulation; nevertheless, they are totally irrelevant to the air defense identification zone.

As previously addressed, after reviewing three legal decrees adopted by the People’s Republic of China in its government statement for establishing the East China Sea ADIZ, many aviation airspaces are noted within their texts, most of them being specifically defined. Even for those which are never defined, whilst they are adopted, we may still clearly identify their significance being fundamentally unrelated to air defense identification zone. As for those airspaces that are overlapped with the air defense identification zone, they would have totally different significances. From such an inspection process, the value for the PRC

government statement to adopt these three legal decrees is essentially further undermined.

#### **4. Air Defense Identification Zone and Sovereignty**

Ever since the People's Republic of China established the East China Sea ADIZ, there are various speculations about the functions that can be achieved by this air defense identification zone. It includes treating establishing ADIZ as an act of claiming sovereignty, expanding sovereignty or sphere of influence, enlarging air defense zone, increasing coverage of air military activities, presenting national strength and testing other states for building prestige, or even probing disputed territories. Whether these speculations can be sensible or only be plausible, it is indeed controversial. Based on the speculations on PRC's strategic intentions from the international community ever since the establishment of the East China Sea ADIZ till now, we may conclude with the following several findings.

First, arguing that establishing ADIZ is associated with claiming sovereignty is in essence lack of linkage relationship. Taking a survey on states all over the world that had ever established ADIZs, it can be seen that no nation ever adopted any of the established ADIZs as the basis for claiming sovereignty of a disputed territory. This may well justify that such a speculation is indeed an overstatement. Second, considering that defining ADIZ may expand sovereignty or sphere of influence is likewise overstated. Establishing ADIZs does not exclude any other states from using these airspaces. The requests for identification are basically following the rules and norms generally practiced by the international civil aviation activities. They are essentially appropriate. Taking proper measures on those who do not follow the requests for identification and report procedures are the standard operating

procedures for every country to conduct its air defense operations. All these speculations are obviously reflecting double standard on this matter.

Further, viewing the East China Sea ADIZ that covers the waters around the Diaoyutai Islands (釣魚臺群島) as an action of probing disputed territories was a statement initially delivered by the United States State Department, right after the establishment of the East China Sea ADIZ, which criticized Mainland China for putting the Diaoyutai Islands into the coverage of its East China Sea ADIZ.<sup>28</sup> Yet, surveying the North American ADIZ, it can be seen that the ADIZ along the Atlantic coast also covers the French territory of St. Pierre Miquelon. It is obviously a treatment of double standard since the United States also included this territory into its own ADIZ. Meanwhile, Beijing totally ignored this accusation with no follow-on associated statement on this matter. It is therefore again an apparent untrue proclamation.

Besides, judging the PRC adopting the East China Sea ADIZ and requesting other states to report flight plans with no reason as intention to enlarge air defense zone and increase coverage of air military activities may essentially be difficult to be justified. It firstly needs to be reminded that after surveying the detailed regulations for demanding all aircrafts entering the ADIZ to inform the PRC authorities, we may understand that it is purely an emulation of the U.S. Code of Federation Regulation Title 14, Part 99, Section 11, which clearly noted with the text of: *No person may operate an aircraft into, within, or from a departure point within an ADIZ, unless the person files, activates, and closes a flight plan with the appropriate aeronautical facility, or is otherwise authorized by air traffic control.*<sup>29</sup> Hence, the argument of reporting the flight plan for enlarging air defense zone does have its prior example. It is by no means a request with no ground. Hence, the comment is also overstated.<sup>30</sup> In addition, given the fact that the PRC

military aircrafts maneuvering through the island chain is already an existing routine practice, accusing it as increasing coverage of air military activities would not be consistent with the realities.

Finally, regarding the accusation targeted at the PRC adopting this action for presenting national strength and testing other states for building prestige, or even probing disputed territories, such should not be Beijing's original purpose. However, from the level of compliance to the requests shown by the aviation administration authorities in various nations and the international aviation service enterprises, establishing the ADIZ should be an achievement beyond the initial intention. Overall speaking, from the perspective of its original purpose for establishment, it should have already achieved its intended goal. And judging from the actual practices at the moment, this air defense identification is still operated in its initial proclaimed operational mode. Whether the strategic aim is achieved as expected or not, it is indeed a matter of judgment.

## 5. Conclusion

“An ADIZ has no basis in international law and is not overseen by any international organization.”<sup>31</sup> There is therefore no standard of establishing an air defense identification zone at all in the international society. This paper is targeted at the three legal decrees adopted by Mainland China in its government statement for establishing the East China Sea ADIZ and the subsequent Defense Ministry announcement of aircraft identification rules. After inspecting the legal causation relationship between these legal codes and the established East China Sea ADIZ as well as conducting the process of text identification, context examination and subtext interpretation, we may conclude that the construction of such a legal causation relationship between codes and the established ADIZ has failed. Furthermore, judging from the editions

of these legal decrees and their jurisdictions, it is in essence full of errors to an unbelievable degree.

Facing such an embarrassing situation caused by the legal flaws, if Mainland China would like to sustain its operations of the East China Sea ADIZ, it should follow the U.S. legal practices to establish some specific legal chapter for the air defense identification zone. Otherwise, it is necessary to conduct a legislative engineering for amending the associated legal terms. Only by so doing, it may satisfy the requirements of rule of law generally exercised by the major powers in the international community. Last but not least, it is necessary to point out that the staff who were involved in drafting the government statement and the announcement of aircraft identification rules were fundamentally reckless. They were completely unthoughtful in adopting these legal decrees, thus creating such an excessive and ridiculous consequence.

## Notes

- <sup>+</sup> The following is a list of the progenitors of this paper. Chang, Ching, “An embarrassing fact: The legal basis of the PRC East China Sea ADIZ”, Center for International Maritime Security, November 23, 2015, <http://cimsec.org/an-embarrassing-fact-the-legal-basis-of-the-prc-east-china-sea-adiz/19804>, data acquired time: 1200, February 10, 2016. Similar content of this paper also appeared in an interview record in Chinese published by the *Asia-Pacific Defense Magazine* (亞太防衛雜誌) with the title “Recklessness vs. overstatement: The legal basis of the PRC East China Sea ADIZ” (依法論政解析東海防空識別區), December, 2015, edition 94, pp. 4-9, and a newspaper commentary article in Chinese titled “評斷東海防空識別區兩周年” [an assessment on the two-year anniversary of the East China Sea ADIZ], *Want Daily* (旺報), November 23, 2015. A similar Chinese edition of this paper with a title of “中共東海防空識別區

法理基礎分析” was a conference paper presented at the annual conference hosted by the Association of ROC International Relations at the National Cheng Kung University (國立成功大學) in Tainan 台南, Taiwan, on October 24, 2015.

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two years. Dr Chang has concluded his military career with the rank of navy captain several years ago, thus acquired a privilege called the “Honorable Citizen of the Republic of China”, and was invited by the ROC Society for Strategic Studies (中華戰略學會, Taipei 台北, Taiwan, ROC) to be a research fellow. Further, Dr Chang is also an active columnist and TV commentator on political issues. <Email: [chingchang@hotmail.com](mailto:chingchang@hotmail.com)>

1. Statement by the Government of the People's Republic of China on Establishing the East China Sea Air Defense Identification Zone, Xinhuanet, 1000, November 23, 2013, [http://news.xinhuanet.com/english/china/2013-11/23/c\\_132911635.htm](http://news.xinhuanet.com/english/china/2013-11/23/c_132911635.htm), data acquired time: 1200, July 12, 2015.
2. The English version of the announcement is not available officially from the PRC Ministry of National Defense. The Chinese version of the announcement is as follows: 中華人民共和國國防部, 中華人民共和國東海防空識別區航空器識別規則公告, 1000, November 23, 2013, [http://www.mod.gov.cn/affair/2013-11/23/content\\_4476910.htm](http://www.mod.gov.cn/affair/2013-11/23/content_4476910.htm), data acquired time: 1200, July 1, 2015.
3. Law of the People's Republic of China on National Defence, official website of the PRC National People's Congress, [http://www.npc.gov.cn/englishnpc/Law/2007-12/11/content\\_1383547.htm](http://www.npc.gov.cn/englishnpc/Law/2007-12/11/content_1383547.htm), data acquired time: 1200, July 1, 2015.
4. “Decision of the Standing Committee of the National People's Congress on Amending Some Laws”, Database of the Peking University Center for Legal Information, <http://en.pkulaw.cn/display.aspx?cgid=120889&lib=law>, data acquired time: 0900, January 26, 2016.
5. *Ibid.*, please see the initial section noted as “Order of the President of the People's Republic of China (No.18)”.
6. *Ibid.*, please see Article 2, Paragraph 2, Item 8 of the “Decision of the Standing Committee of the National People's Congress on Amending

Some Laws”.

7. “Civil Aviation Law of the People’s Republic of China”, official website of the PRC National People’s Congress, [http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content\\_1383722.htm](http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content_1383722.htm), data acquired time: 1200, January 12, 2016. Please also see “Civil Aviation Law of the People’s Republic of China”, Database of the Peking University Center for Legal Information, <http://www.lawinfochina.com/display.aspx?lib=law&id=491&CGid=>, data acquired time: 0940, January 26, 2016.
8. *Ibid.*, please see the “Civil Aviation Law of the People’s Republic of China”, Database of the Peking University Center for Legal Information. It is specified that the PRC Civil Aviation Law was revised by the “Decision of the Standing Committee of the National People’s Congress on Amending Some Laws” with the effective date on August 27, 2009.
9. Please see the initial section noted as “Order of the President of the People’s Republic of China (No. 18)” in the “Decision of the Standing Committee of the National People’s Congress on Amending Some Laws”, Database of the Peking University Center for Legal Information, *op. cit.*
10. The translation of the content of the “Law of the People’s Republic of China on Civil Aviation” is adopted from a blog, not from the PRC official source. The translation of this legal decree is not available at the PRC National People’s Congress database. Please see Anhui Hefei Legal English Translation ( 安徽合肥法律英语翻译 ), “The Decision of the Standing Committee of the National People’s Congress on Revision of Some Laws” ( 全國人民代表大會常務委員會關於修改部分法律的決定 ), Sina Blog, [http://blog.sina.com.cn/s/blog\\_636b31170100ig58.html](http://blog.sina.com.cn/s/blog_636b31170100ig58.html), data acquired time: 1900, January 12, 2016. It is also necessary to remind the readers that variations of translation may frequently occur among various sources.
11. The revision history for the “General Flight Rules of the People’s Republic of China” in this paragraph is concluded from the following various

sources: “Decision of the State Council and the Central Military Commission on Amending the General Flight Rules of the People’s Republic of China”, official website of the PRC National People’s Congress, [http://www.npc.gov.cn/englishnpc/Law/2007-12/14/content\\_1384244.htm](http://www.npc.gov.cn/englishnpc/Law/2007-12/14/content_1384244.htm), data acquired time: 1400, January 12, 2016; “Decision of the State Council and the Central Military Commission on Amending the General Flight Rules of the People’s Republic of China, database of the legal information in the Chinese central government’s official website, [http://english1.english.gov.cn/laws/2005-08/24/content\\_25841.htm](http://english1.english.gov.cn/laws/2005-08/24/content_25841.htm), data acquired time: 1410, January 12, 2016; “Decision of the State Council and the Central Military Commission on Amending the General Flight Rules of the People’s Republic of China” (2007 edition), database of the Peking University Center for Legal Information, <http://www.lawinfochina.com/display.aspx?lib=law&id=11870&CGid=>, data acquired time: 0930, January 26, 2016; “General Flight Rules of the People’s Republic of China” (2001 revision), database of the Peking University Center for Legal Information, <http://www.lawinfochina.com/display.aspx?lib=law&id=12839&CGid=>, data acquired time: 0950, January 26, 2016.

12. Please see the text of Article 124 of the “General Flight Rules of the People’s Republic of China” noted by the aforementioned sources containing the following: *The General Flight Rules of the People’s Republic of China promulgated on April 21, 1977 by the State Council and the Central Military Commission shall be repealed simultaneously*. This may indicate the significant revision after a long period of time.
13. “Decision of the State Council and the Central Military Commission on Amending the General Flight Rules of the People’s Republic of China”, official website of the PRC National People’s Congress, *op. cit.*
14. “Decision of the State Council and the Central Military Commission on Amending the General Flight Rules of the People’s Republic of China” (2007 edition), database of the Peking University Center for Legal

Information, *op. cit.*

15. Please see the legal information database provided by the Civil Aviation Administration of China. It is still noted with incorrect information on the validity of the “General Flight Rules of the People’s Republic of China” (information in Chinese text; English information is not available at the website), <http://www.caac.gov.cn/B1/B5/> and [http://www.caac.gov.cn/B1/B5/200612/t20061218\\_790.html](http://www.caac.gov.cn/B1/B5/200612/t20061218_790.html), data acquired time: 1000, January 28, 2016.
16. The original text of Article 26 is: *The territorial land, inland waters, territorial seas and territorial air space of the People’s Republic of China are inviolable. The State reinforces the defence of the frontiers, seas and air space and adopts effective defence and control measures to defend the security of the territorial land, inland waters, territorial seas and territorial air space and safeguard the maritime rights and interests of the country.* Please see “Law of the People’s Republic of China on National Defense”, official website of the PRC National People’s Congress, *op. cit.*
17. For all the texts of the relevant articles noted by the “Civil Aviation Law of the People’s Republic of China”, please see “Civil Aviation Law of the People’s Republic of China”, official website of the PRC’ National People’s Congress, *op. cit.*
18. The further examination tasks on the texts of these three legal decrees in this paragraph are based on the aforementioned sources as listed in the previous notes.
19. The relevant text in Article 167 of this law is: ... *(1) Demurrers to claims for injury or damage that occurs after the termination of the effective term of the insurance or guarantee. But if their term should end in the midst of a flight, it should continue to be effective until the next landing specified in the flight plan. But the extended period of the term should not exceed twenty-four hours ...*; and the relevant text in Article 178 is: *Foreign civil aircraft should make their flights according to the fly schedule or plan*

*approved by CAA. For a change in the fly schedule or plan ...*

20. The relevant text in Article 39 of this regulation is: ... *Each aviation unit shall conduct the flight in accordance with the approved flight plan*; and the relevant texts in Article 90 are: *Flight commanders shall earnestly fulfil their duties and responsibilities, ... (1) be familiar with flight missions, flight plans, technical proficiency and health conditions of crew members, aircraft performance and airborne equipment, and conditions of all other supporting services; ...*
21. The relevant text in Article 10 of this law is: ... *refer to rights over their airframes, engines, propellers, radio equipment and all other articles ...*; the relevant texts in Article 88 are: ... *exercise control over civil aviation radio stations and the frequencies ... The radio stations and other instruments and installations ... should not interfere with the normal use of the frequencies specially reserved for civil aviation radio communication ... having caused interference in an adverse way with the use of civil aviation radio frequencies should immediately suppress the interference ... the use of the interfering radio stations and other instruments and equipment should be suspended*; and the relevant texts in Article 90 are: *Civil aircraft on flight duty should carry the following documents: ... (5) License of the radio equipment on the aircraft ...*
22. The relevant text in Article 24 of this regulation is: ... *flight obstacle lights and marks shall be installed ... in line with the relevant provisions of the State on high buildings or facilities that will possibly affect flight safety*; and the relevant text in Article 47 of this regulation is: ... *the horizontal visibility is less than 2 kilometers during daytime, all the obstruction lights of the aerodrome shall be switched on before any takeoff or landing of aircraft; ...*
23. The relevant text in Article 12 of this regulation is: ... *The airspace is usually divided into aerodrome flight airspace, airways, air routes, prohibited areas, restricted areas and danger areas. Air corridors, fuel*

*dumping areas and temporary flight airspace may be established when necessary for the need of airspace management and flight missions.*

24. The relevant texts in Article 12 of this regulation are: ... *Normally aerodrome flight airspace includes such flight airspace as flying techniques (aerobatic, formation, instrument) flight airspace, scientific research test flight airspace, firing flight airspace, low-level flight airspace, super-low-level flight airspace, aero-marine flight airspace, nighttime flight airspace and holding airspace. Holding airspace ... The vertical clearance from the lowest holding ... the flight levels in the holding airspace shall be separated by 300 meters; ...*
25. The “Administrative Rules on Air Traffic of China’s Civil Aviation” (in Chinese, 中國民用航空空中交通管理規則), official website of the Civil Aviation Administration of China, CCAR-93TM-R2, [http://www.caac.gov.cn/b1/b6/200612/t20061220\\_900.html](http://www.caac.gov.cn/b1/b6/200612/t20061220_900.html), data acquired time: 1130, January 31, 2016. This regulation has been further revised on March 19, 2001. Although the edition noted here is not the nearest and valid one, the information addressed by this paper remains the same – please see “Decision of the Civil Aviation Administration of China on Revising the Administrative Rules on Air Traffic of China’s Civil Aviation”, Order No. 99 of the Civil Aviation Administration of China (in Chinese, 中國民用航空總局令第 99 號), official website of the Civil Aviation Administration of China, CCAR-93TM-R3, [http://www.caac.gov.cn/b1/b6/200612/t20061220\\_908.html](http://www.caac.gov.cn/b1/b6/200612/t20061220_908.html), data acquired time: 1140, January 31, 2016, and a partial English translation of the “Decision of the Civil Aviation Administration of China on Revising the Administrative Rules on Air Traffic of China’s Civil Aviation”, database of the Peking University Center for Legal Information, <http://www.lawinfochina.com/display.aspx?lib=law&id=4383&CGid=&EncodingName=big5>, data acquired time: 1210, January 31, 2016.
26. Based on the aforementioned sources, the text of Article 87 of the “Administrative Rules on Air Traffic of China’s Civil Aviation”, *For flight*

*information services facilitating the aircrafts flying within the territories in China and airspaces beyond the territorial airspace assigned by the International Civil Aviation Organization, there are in total ten flight information regions known as Shenyang 瀋陽, Beijing 北京, Shanghai 上海, Guangzhou 廣州, Kunming 昆明, Wuhan 武漢, Lanzhou 蘭州, Urumqi 烏魯木齊, Hong Kong 香港 and Taipei 臺北 in the whole nation* (translated by author), it can be proven that the flight information region noted by Article 87 is exactly the flight information region assigned by the International Civil Aviation Organization. Please note that the Sanya 三亞 flight information region had not been assigned yet while this regulation was revised.

27. The Chinese translation of the flight information region in Taiwan is “飛航情報區”, which is totally identical in meaning to the translation version “飛行情報區” in Mainland China. Please see “Flight Information Region” (in Chinese, 飛航情報區), *Baidu Encyclopedia* ( 百度百科 ), <http://baike.baidu.com/view/1133693.htm>, data acquired time: 1200, February 2, 2016.
28. “Statement on the East China Sea Air Defense Identification Zone”, Press Statement, John Kerry – Secretary of State, Washington, DC, November 23, 2013, United States Department of State, <http://www.state.gov/secretary/remarks/2013/11/218013.htm>, data acquired time: 1510, January 14, 2016.
29. “14 CFR 99.11 – ADIZ flight plan requirements”, Code of Federal Regulation, <http://www.gpo.gov/fdsys/pkg/CFR-2011-title14-vol2/pdf/CFR-2011-title14-vol2-sec99-11.pdf>, data acquired time: 1315, February 10, 2016; for all the regulations governing the U.S. ADIZ, please see the Code of Federation Regulation, Title 14, Part 99, <http://www.gpo.gov/fdsys/pkg/CFR-2000-title14-vol2/pdf/CFR-2000-title14-vol2-part99.pdf>, data acquired time: 1400, February 10, 2016.

30. The author of this research paper has personally criticized the U.S. for having a double standard. Please see Chang, Ching 張競, “美雙重標準批中 我專家不苟同” [our expert does not agree with the United States for having a double standard to criticize the PRC], *Want Daily* (旺報), December 9, 2013, <http://www.want-daily.com/portal.php?mod=view&aid=9582>, data acquired time: 1000, January 21, 2016.
31. Page, Jeremy, “The A to Z on China’s Air Defense Identification Zone”, *The Wall Street Journal*, November 27, 2013, <http://blogs.wsj.com/china realtime/2013/11/27/the-a-to-z-on-chinas-air-defense-identification-zone/>, data acquired time: 1710, January 18, 2016; please also see “Air Defense Identification Zone”, GlobalSecurity.com, September 3, 2014, <http://www.globalsecurity.org/military/world/china/adiz.htm>, data acquired time: 1815, January 18, 2016.