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TOPIC: PRC'S AIR & MARITIME EXCLUSION ZONES

BLUF



- In response to the Speaker visit to Taiwan, the PLA established six air and maritime zones around Taiwan for military exercises and live firings from 03 Aug to 06 Aug. Taiwan officials called these a violation of international law and an infringement on navigational freedom.
- This TACAID examines the zones under international law and recommends messages to counter the PRC's legal warfare.

DETAILED DISCUSSION



The PRC zones likely have no basis in international law because of the purpose, scope, and location.

- International law recognizes a several ways for a State to control, warn, or limit access to an area.
 - Warning Zone: A zone wherein military activity presents a hazard to safe navigation of ships and aircraft and seeks voluntary operation elsewhere. Permissible in peacetime when implemented with due regard for other navigation.¹
 - Exclusion Zone: A zone that prohibits entry, which is impermissible in peacetime because it infringes on navigational freedoms by other ships, aircraft, and other States.
 - Blockade: A wartime tool to prevent ships and aircraft from supplying an enemy. Under international law, a blockading State must: establish the blockade with a beginning period, geographic limits, and grace period for ships and aircraft to leave; provide notice to others; effectively enforce it military presence to render entry dangerous; and it must be impartially applied to ships and aircraft of all States.²
 - Maritime Quarantine: A peacetime measure, like a blockade, but limited to a "measured" and "proportional response" to a national security threat or international crisis and established to de-escalate and return a situation to the status quo.³ Used once by the U.S. during the Cuba Missile Crisis, where the U.S. limited navigational freedom only to ships suspected of carrying Soviet missiles to Cuba.
- The PRC's zones do not meet any of these standards.
 - International law does not allow PRC to establish exclusion zones around Taiwan, and media quoting PRC officials stating the zones prohibit entry demonstrate an unlawful action under international law.
 - The zones are also unlawful warning zones, despite some reports referring to them as "danger areas," because of their unlawful purpose and failure to take due regard of free navigation. The PRC placed these zones around Taiwan as a signal of intimidation and aggression, not a peaceful use of international waters. Further, the zones are placed along high traffic maritime and air corridors with no regard for the right of others to navigate freely, particularly into or from Taiwan. A lawful and responsible warning area for military activity would be limited in duration, include measures to permit safe navigation, and most importantly, take into account the zone's impact on other air and maritime traffic.
 - The PRC zones are also not a lawful quarantine. Instead of maintaining the status quo or tempering a crisis, the PRC is attempting to isolate Taiwan, escalate tensions, and punish its people by discouraging lawful commerce and trade.
 - The PRC zones are not a lawful blockade because it is not a belligerent at war. But its actions may amount to an unlawful blockade because the PRC has provided notice to others to leave the area, warned that entry may

¹ Art. 87, U.N. Convention on the Law of the Sea.

² Art. 7.7, Commanders Handbook on Law of Naval Operations, NWP 1-14M (2017).

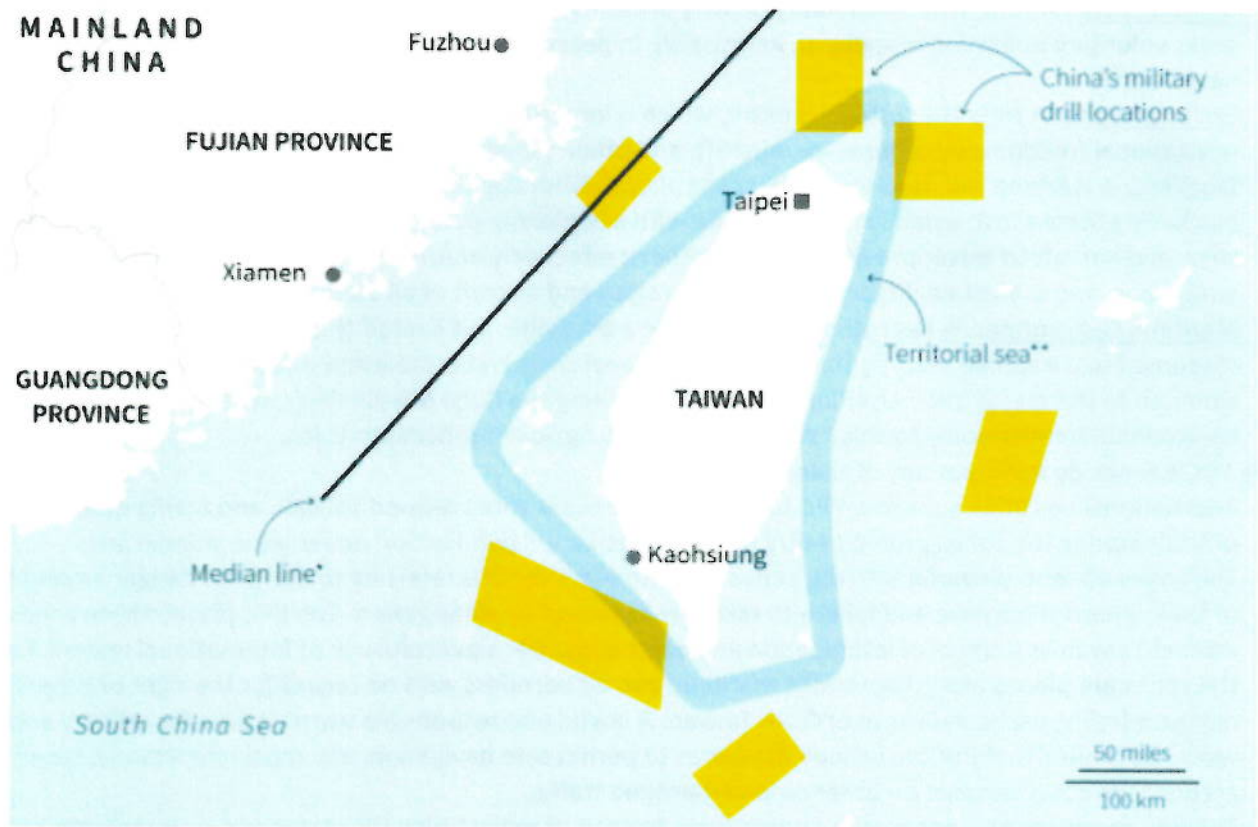
³ Art. 4.4.8, Commanders Handbook on Law of Naval Operations, NWP 1-14M (2017).

pose danger to ships and aircraft, and established a large, overt military presence to effectively enforce its restrictions by foreign ships and aircraft.

PROPOSED COUNTER-LAWFARE APPROACH

- The PRC's provocative and dangerous exercise areas around Taiwan unlawfully restrict the rights of the international community to navigate at sea and in the air.
- The PRC's conduct is an escalatory and provocative attempt to isolate Taiwan, change the status quo, and punish the people of Taiwan.
- The PRC has no basis in international law to establish these areas in this manner.
- More forceful messaging could highlight the Taiwan Relations Act – "any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific and of grave concern to the United States."

GRAPHIC



* An unofficial maritime line of control which China does not recognise, although neither side's aircraft or battleships normally cross it.

** A 12 nautical mile zone from the baseline or low water line along the Taiwanese coast. Taiwan's control also extends to the air space over the territorial sea as well as to its bed and subsoil.

Sources: Xinhua News Agency; Asia Maritime Transparency Initiative; U.S. Congressional Research Service

W. Foo | Reuters, Aug. 4, 2022

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