

# Overseas Military Bases and Environment

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## Key Points

- The U.S. lacks a comprehensive program for responding to environmental contamination at foreign military bases.
- Operating without clear legal obligations, the Pentagon has chosen to implement the most minimal environmental program possible.
- Shrouded in secrecy, DOD has avoided oversight and criticism of its existing programs, which are administered by well-intentioned staff in a haphazard, inconsistent, and underfunded manner.

The United States operates a vast array of foreign bases manifesting many of the same environmental problems found at domestic bases, including toxics in drinking water, explosives on firing ranges, and noise pollution. At domestic bases, the Department of Defense (DOD) has undertaken a rigorous and public—if inadequate—cleanup program. Overseas, DOD hides behind a veil of secrecy and refuses to clean up most contamination generated by its activities. In Congress, the military's funding for overseas environmental programs has been subject to a kind of reverse pork-barreling. In the absence of constituents who are directly affected, cleanup obligations are frequently ignored.

DOD's overseas bases include some 800 locations ranging in size from radio relay sites to major airbases. Technological advances and the end of the cold war have led to downsizing of many overseas bases. In Germany, alone, the U.S. withdrew 180,000 troops between 1990 and 1995.

Most overseas military base agreements were signed prior to the current era of environmental awareness and, accordingly, contain extremely vague environmental provisions, if any. Before the 1980s, the military kept few records of the exact amounts or locations where toxics and explosives were used. That is why, even at domestic bases, extensive study is often needed to discover and characterize hazards.

Extensive environmental legislation governs domestic bases, but no legislation focuses on overseas bases. DOD has exploited this lack of explicit obligation by conducting the absolute minimum of environmental restoration at overseas bases. Although the military's environmental compliance overseas has improved in recent years in areas such as recycling, toxics disposal, and sewage treatment, its response to sites contaminated in the past has been characterized by a secretive, do-nothing approach.

The U.S. military has left behind a legacy of environmental problems throughout the world, giving rise to a multitude of complaints by host governments, community groups, and

environmental organizations. In the Philippines, only after the U.S. military evacuated Subic Naval Station and Clark Air Base in 1992 did Filipinos discover what one U.S. official called a “horror story,” including tons of toxic chemicals dumped on the ground and into the water, or buried in uncontrolled landfills. In Panama, 21 people already have died from explosions of ordnance left on firing ranges, prompting fears that more accidents will occur after the U.S. leaves. And in Germany, where half of all overseas U.S. troops are still stationed, industrial solvents, firefighting foams, and waste have destroyed local ecosystems near some military bases. The Army estimates that cleanup of all U.S.-caused soil and groundwater pollution overseas could cost more than \$3 billion.

Although the Pentagon has issued numerous statements regarding environmental protection overseas, no U.S. legislation addresses or regulates such protection. The current overseas remediation policy, promulgated by DOD in October 1995, is far weaker than domestic law. For example:

- Overseas base cleanup has no program element in the federal budget, limiting military commanders to efforts paid out of each installation’s operations and maintenance accounts, even if they want to do more.
- The policy does not require baseline studies to discover hazardous sites.
- The policy only addresses sites where DOD already knows of problems.
- DOD is obligated to remediate only “imminent and substantial” endangerments. More extensive cleanup may occur if it is deemed necessary to maintain military operations, to protect human health and safety (if required by international agreements), or if funded by the host country.
- DOD will not fund any remediation after a facility has been returned to the host country unless required by a binding international agreement or a cleanup plan negotiated before the transfer. In contrast, at domestic bases requiring remediation, cleanup almost always continues after closure.

In addition to the 1995 policy, DOD is required by Executive Order 12114 (signed in 1979) to produce environmental assessments for actions overseas that affect the environment. Yet the U.S. has spent only \$102 million on overseas base cleanups during the last four years versus \$2.13 billion budgeted in 1998 alone for domestic base cleanups. In an attempt to minimize further expenditures, DOD is undermining its declared commitment to make the U.S. military a global environmental leader.

## Problems with Current U.S. Policy

### Key Problems

- By limiting cleanup to known, imminent, and substantial dangers and by excluding cleanup after bases close, DOD environmental policy for overseas bases does not meet moral and international legal standards.
- Communities and host nations affected by DOD’s overseas toxics have no input into how cleanup decisions are made.
- Both the military contamination and the double standard applied to cleanup harm U.S. relations with other governments and peoples.

There are several fundamental problems with DOD's response to the contamination it has caused at overseas military bases. Since there is no domestic legislation requiring the Pentagon to clean up its overseas sites, its response is dictated by existing international agreements, which are generally vague, and by DOD's own flawed 1995 policy. At the root of the problem, however, is the U.S. military's belief that the mere presence of overseas forces, combined with investments in overseas base infrastructure, more than compensates host nations for the financial burdens of DOD's overseas toxic legacy.

Although the U.S. has spent billions of dollars to develop and maintain overseas bases, the Pentagon applies a double standard in its domestic and overseas cleanup programs. Congress has contributed to DOD's minimalist approach by failing to direct a coherent response. As such, DOD's first overseas cleanup policy lagged behind similar domestic policies by 24 years. Domestically, the Pentagon found that early and accurate identification of toxic sites was an essential component of its program. In contrast, DOD's overseas policy fails to require a comprehensive review for all potential sites and waives all obligation to clean up hazardous sites unless they pose "imminent and substantial" endangerment.

Since it does not search for hazardous overseas sites, the Pentagon cannot evaluate whether such sites warrant cleanup. In Panama, DOD is turning over bases to the government (prior to the treaty-imposed December 31, 1999 deadline) without providing accurate inventories of scores of sites contaminated with fuel, lead acid from discarded batteries, and other toxins. So despite being in compliance with its own policy, DOD is still transferring pollution to host countries.

The U.S. military believes that the health impacts of pollution are offset by the value of improvements that have been made to overseas bases, implying that the health of foreigners is worth less than the health of Americans. Though infrastructure developments may be important, countries may not have the technical or financial resources to clean up after DOD leaves. Furthermore, given that a single hazardous site can cost as much as \$100 million to restore, the cleanup of a large base could easily exceed the value of any residual infrastructure improvements. Thus, if DOD conducted a full investigation of its contamination, the U.S. could owe its host country a substantial sum of money.

Unfortunately, except for bases in northern Europe, the Pentagon is not making any effort to accurately define the status of sites being transferred to foreign countries. When bases closed in the Philippines in 1992, DOD made every effort to avoid identifying problems. There are some environmentally committed base commanders and staff, but there is no mandate for their efforts. Nor is there a budgetary program element, so funding has to compete with other core operations and maintenance needs.

When environmental staff do conduct cleanups, it is often without input from host governments and always without consulting affected communities. Rather than building trust, as it has attempted domestically over the last few years, the Pentagon has avoided all public discussion overseas. DOD's isolation from the overseas public and from some host governments invites political controversy whenever major sites are discovered. Members of the public, legislators, and agency representatives in Iceland, Germany, Italy, Okinawa, Panama, the Philippines, and

Puerto Rico have expressed frustration with DOD's cleanup program. Anger over environmental impacts undermines constructive relations with foreign countries both large and small.

The current policy also fails to set criteria for assessing imminent threats or for selecting adequate cleanup levels. In this void, DOD personnel in each country draw upon a mix of professional judgment, advice of contractors, and domestic environmental laws. As a result, DOD is likely wasting precious resources by cleaning up sites that are not a priority to the host country and by conducting incomplete clean-ups that host countries may find inadequate at a later time.

Failure to assess and clean up contamination also violates international norms requiring governments to ensure that their actions do not harm other individuals or countries. Yet Washington exploits imbalances in political and economic power by rewarding countries that develop aggressive regulatory programs and punishing those without sufficient resources or technical capacities. Global peers (such as Japan and Germany) are able to force the U.S. to clean up its toxic messes, whereas little or no cleanup occurs in less developed countries, which have neither the resources and the technology to redeem the toxic bases nor the clout to force DOD to do so.

Finally, the Pentagon's practice of leaving contaminated bases behind violates the generally accepted principle that the polluter pays. This principle is being codified by an increasing number of countries and is already the law within the United States. In a cynical twist on the principle, Pentagon policy allows host countries to pay for cleanups of U.S. base pollution if they are unsatisfied with DOD's lack of action, as long as the cleanup does not interfere with military operations.

## **Toward a New Foreign Policy**

### **Key Recommendations**

- Environmental information should be made available to the public in host nations.
- DOD overseas cleanup standards should be on a par with U.S. domestic standards and consistent with international law.
- When closing its overseas bases, the U.S. should negotiate post-closure cleanup agreements that allow for reasonable continuing obligations.

In light of these problems, the U.S. should draft a new overseas cleanup policy that eliminates double standards and is consistent with domestic cleanup requirements. Such a policy would not only comply with international law and make the U.S. a more gracious guest on foreign soil, it would also set a better environmental example for other nations, for international agencies, and for transnational corporations.

A vital first step toward this new policy would be to disclose to affected nations and communities all documents relevant to the environmental conditions of current and former U.S. bases. Such documents should include comprehensive environmental assessments, which is

standard procedure for domestic military bases. Documents could be deposited with libraries or universities with public access and delivered to pertinent host government agencies.

Second, cleanup standards overseas should be on a par with U.S. domestic standards and consistent with international law. Domestically, DOD is forced to comply with the Superfund law and its mechanisms for establishing safe levels of contamination. If all human health is equally valuable, these standards should apply overseas in countries that do not have explicit definitions for cleanup levels.

The basis for such international application includes the 1972 Stockholm Convention on the Human Environment, which declares: "States have, in accordance with the Charter of the United Nations and the principles of international law..., the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction." Even more pertinently, the UN World Charter for Nature states: "Military activities damaging to nature shall be avoided.... All persons, in accordance with their national legislation, shall have the opportunity to participate, individually or with others, in the formulation of decisions of direct concern to their environment, and shall have access to means of redress when their environment has suffered damage or degradation."

These international agreements form an important body of international norms, which assume the status of international law. Since the U.S. is a signatory to these agreements, all federal agencies, including DOD, are subject to these international norms. International law, including the United Nations Charter, also establishes the undisputed human right to freedom from discrimination. Both this provision and common decency dictate that the U.S. should not set a higher cleanup standard for its own citizens than for those of other nations affected by contamination produced by U.S. military activities.

When closing its overseas bases, the U.S. should negotiate post-closure cleanup pacts with host nations that allow for reasonable continuing obligations, like agreements frequently negotiated with domestic state and local agencies. This is especially important both because cleanup often takes years to complete and because emerging technology can make future cleanup feasible, even though it may not be practical today. In addition, current liability restrictions specifying "known" dangers at foreign bases evade responsibility for potentially serious problems discovered after the U.S. military has left.

Overseas negotiations should be based on reliable estimates of cleanup costs, not simply a congressional desire to obtain "residual value" for property "improvements." U.S. estimates of the residual value of military real estate often bear no relation to the cost of adapting military installations to civilian use.

But the Pentagon cannot undertake such a major policy decision in a vacuum. Congress bears equal responsibility in setting cleanup objectives and ought to consider cleanup as one of DOD's fundamental responsibilities. As such, it is incumbent on Congress to authorize and fund the Pentagon's efforts. Until it does so, there will be little chance for DOD's environmental program to foster constructive relations with other countries or even to meet minimum legal and moral standards.

Finally, some military activities—such as munitions testing and exercises as well as war itself—are intrinsically harmful to the natural world and inimical to sustainable development. Once judged necessary to contain a perceived Soviet threat, U.S. military bases overseas must be reexamined, and resources should be redirected toward environmental cleanup and other pressing social needs.