

III. Host Country Bill of Rights

Introduction

The Host Country Bill of Rights was created and adopted by the participants at the Summit to define a set of baseline cleanup standards that should apply to all U.S. bases. It was then presented and disseminated to the public, the media and public officials in settings including:

- A hearing in the U.S. Congress, co-sponsored by Representative Barbara Lee (D-CA) and Senator Paul Wellstone (D-MN).
- A meeting among NGO Summit delegates and representatives from their respective embassies.
- A meeting in New York City among NGO Summit delegates and representatives of the United Nations Disarmament and Indigneous Peoples Committees.
- Meetings with individual offices of U.S. Congresspersons including Senators Lautenberg (D-NJ), McCain (R-AZ), Kennedy (D-MA) and Levin (D-MI).
- Meetings with regional offices at the U.S. Department of State and the Office of the Secretary of Defense with jurisdiction over cleanup of U.S. bases.

At the Congressional Briefing, the Host Country Bill of Rights was introduced by the Peruvian delegate, Ricardo Soberon, a lawyer and representative of Acción Andina in Peru. His remarks follow:

Thank you. As Senator Wellstone was saying, we in the Andean region are now facing an increasing presence by the U.S. military, without procedures in place assuring the cleanup of the bases and thus potentially endangering the health of communities in the Andean region. During these last three days, people from all around the world have been gathering, discussing, and debating about common problems rising from the presence of U.S. military installations. After these three days, we thought that it was important not only to exchange information among ourselves, but to share it, and to define a common set of standards that should apply to all overseas U.S. bases. All of you have in your files a copy of this environmental bill of rights for communities, for people, for nations hosting colonial and foreign military bases. I will share with you this document which is basically divided in two. The first part concerns the case we all can be making to our own governments, because in most of our cases, we have been denied the right for knowing what is happening in our territories where U.S. military bases are located. But most important is the second part of this document. It will apply basically to U.S. authorities, and it is important that these documents are known here in the Congress, where very important decisions are going to be taken in the future. Let me just share with you, if you see some of the basic decisions that we have approved as people involved with these problems. Particularly, I would like to share with you the point that if the U.S. government, on behalf of its security, thinks that it has the right to establish any kind of military base in the future, around the world, that must be accompanied by the duty that this government has to assure the people who suffer the consequences of the presence of these bases, the duty for a complete cleanup, and if necessary, to look for remedies and compensations for the different kind of victims of these policies overseas. Finally, I would like to share with you the idea that this is not a final document in terms that the work is finished. I will say that for all of us, and particularly for U.S. organizations, this is just the beginning, because for us, this document is just a

tool, a means for making policymakers to be reminded of each of these principles, each of these articles, that are the result of a long discussion of people who are experts on these matters. So please, I hope that you will read carefully. And for the press, who is present here, that you must be reminded that it is not just a matter of security for the U.S., but most importantly, it is a matter of environmental security for people who live near the U.S. bases that are located outside of U.S. territory. Thank you very much.

Highlights of the Host Country Bill of Rights for Persons, Indigenous Peoples, Communities and Nations Hosting Foreign and Colonial Military Bases

A uniform code of conduct for U.S. management of its military bases internationally shall include the following articles:

- **The United States shall protect the health, welfare and environment of communities in nations and colonies hosting its overseas installation by using U.S. environmental standards as minimum thresholds for management;**
- **The United States shall publicly release monthly environmental status reports detailing environmental protection, pollution prevention and compliance activities for all U.S. military facilities in each host country, as well as any accidents, illnesses or other health, welfare and environmental or public health problems that may be related to the operations of the facility;**
- **Host nation environmental and public health agencies shall have the right to independently inspect U.S. overseas bases for environmental protection and compliance violations within 24 hours of providing notice to the local base command for normal inspections;**
- **The United States shall undertake environmental cleanup at active and closed foreign bases that is at least fully compliant with current environmental restoration programs in the United States;**
- **The United States shall actively partner with the environmental and public health agencies of host nations to carry out environmental studies and restoration programs;**
- **The use of national security exemptions shall not apply to the reporting and cleanup of hazardous waste, chemical ordnance, biological ordnance, unexploded ordnance or radioactive substances contaminating in-land, on-shore, and off-shore military sites.**

Host Country Bill of Rights for Persons, Indigenous Peoples, Communities and Nations Hosting Foreign and Colonial Military Bases

Introduction

The International Grassroots Summit on Military Base Cleanup which met at Trinity College from October 25th-29th 1999, attended by 70 people from 14 nations and colonies, affirms and adopts this Environmental Bill of Rights for Persons and Nations Hosting Foreign Military Bases encouraging its adoption by the national legislatures of host nations, by the United Nations and other international agencies, and its incorporation within domestic law and international codes of conduct between nations.

As has been affirmed in various United Nations and other international resolutions we affirm the right of every person to live in peace, security, health, enjoyment of their property, protection of their environment, environmental sustainability, environmental justice and choice of political and governmental affiliation. Militarism threatens these rights.

Preamble

Whereas national governments have for decades located military bases in territories of other countries and colonies;

Whereas active and former military bases are major sources of environmental pollution that threaten health, welfare and the environment, future generations and the future use of properties;

Whereas governments maintaining foreign and colonial military bases have long ignored, downplayed or denied the adverse impacts of installations and activities on health, welfare and the environment;

Whereas environmental justice principles acknowledge that economically disadvantaged communities, women, children, people of color, and indigenous peoples have often borne a disproportionately burden of environmental destruction caused by military installations;

Whereas the taking of property for military purposes has denied individuals with the full and fair use of their lands;

Whereas international law, as embodied in the 1972 Stockholm Declaration on the Human Environment and other instruments, states that nations have the responsibility of ensuring that their activities do not cause damage to the environment of other nations;

Whereas the “polluter pays” and precautionary principles are internationally recognized concepts embodied in Agenda 21 and other related international instruments;

Whereas a healthy environment is a basic human right;

Whereas every person has the right to ethical, balanced, and responsible use of their land, water,

other property and resources;

Whereas every person has the right to be informed and to participate in decision-making on environmental issues affecting them;

Whereas every person has the right to seek remedies for loss of life and injury to their health, welfare or environment due to toxic and hazardous substances;

Now, Therefore Be It Resolved That,

Article I. Every person has the right to accurate, timely, and understandable information about environmental issues pertaining to foreign and colonial military bases and related activities. This information shall be provided at no cost.

A. Governments that operate foreign and colonial military bases are obligated to disclose information that would assist every person and host nation in identifying possible threats to health, welfare and the environment.

B. National and local governments, non-governmental organizations, and representatives of the affected communities have the right to conduct on-site inspections of both active and closed foreign and colonial military bases to investigate possible threats to health, welfare and the environment.

Article II. Every person and host nation has the right to environmental cleanup of sites contaminated by foreign and colonial military bases and related activities.

A. Governments operating foreign or colonial military bases are obligated to conduct all activities in line with the principles of pollution prevention.

B. Governments operating foreign and colonial military bases are obligated to conduct regular and comprehensive analysis and investigations to ensure that their activities are not damaging the environment. Should contaminated sites be found, governments operating foreign and colonial military bases shall act quickly to complete environmental studies and cleanup plans in a manner consistent with Article III of this Bill of Rights.

C. Governments operating foreign and colonial military bases are obligated to conduct systematic and thorough cleanup of any sites contaminated by bases and related activities. Cleanup efforts shall be consistent with Articles III and IV.

D. Consistent with the polluter pays principles, the costs of such cleanup shall be borne by the polluter.

E. If the host nation is a developing country, cleanup shall involve training, technology transfer, and technical support to the host nation, non-governmental organizations, and affected communities so as to enhance the country's technical capacity for environmental cleanup and citizen oversight consistent with Articles III and IV.

Article III. The precautionary principle shall apply in all determination of injury, hazards or risks posed and brought about by contamination by foreign and colonial military bases. The approach to

cleanup shall focus on permanent destruction of toxic and hazardous substances, as opposed to containment, storage, dispersion and dilution, physical barriers or legal restrictions on future use known as “institutional controls.” Using materials for their intended military purpose does not constitute proper treatment or disposal. Technologies chosen for the destruction of toxic and hazardous substances shall not give rise to other pollution problems. Cleanup standards shall be based on the maximum achievable decontamination as per Article IV.

A. Where environmental cleanup entails potential adverse effects on the environment, welfare or health, host nations shall seek public discussion of how to balance the need for cleanup with the risks of adverse effects, develop measures to mitigate potential adverse effects, and ensure that cleanup plans reflect the concerns of the affected public. The cleanup shall be conducted with the maximum avoidance of exposure and other hazard to workers involved in cleanup.

Article IV. Every person and host nation has the right to participate meaningfully in all levels of decision-making regarding assessment, planning, implementation, evaluation and oversight of environmental cleanup.

A. Governments operating foreign and colonial military bases must conduct all environmental cleanup activities in a transparent manner. They shall provide information on a regular basis about environmental cleanup and practices of pollution prevention by making all relevant documents available in publicly accessible repositories and directly to individuals at no cost. Governments shall proactively disseminate information so as to ensure the maximum public partnership.

B. Governments operating foreign and colonial military bases shall provide reasonable periods for review with extensions available to promote public comment before each phase of environmental cleanup.

C. Governments operating foreign and colonial military bases and host nations shall put in place a mechanism allowing affected communities and non-governmental organizations to participate meaningfully in decision-making regarding assessment, planning, implementation, and evaluation of environmental cleanup. This includes the establishment of advisory committees to provide feedback and input on base cleanup decisions; such committees shall be drawn from local stakeholders and representatives of affected communities, non-governmental organizations, industrial or commercial interests, and local government representatives. Nevertheless the governments shall not assume the creation of advisory committees constitute complete public partnership.

D. Governments operating foreign and colonial military bases shall actively partner with environmental and public health agencies OF host nations and with affected communities in the assessment, planning, implementation, and evaluation of environmental cleanup.

E. Governments operating foreign and colonial military bases shall provide necessary funding and technical resources to ensure effective stakeholder oversight over the cleanup process by the host nation and affected communities in accordance with Article III.

Article V. Every person and host nation has the right to compensation for loss of life, injury to health and welfare, damage to and unauthorized use of property, and degradation of the environment.

A. Every person and host nation has the right to international conflict resolution and to seek remedy under international law.

B. Every person shall have the right in their individual capacity to seek the remedies provided for in this section, regardless of the position of any government, including their own.

C. The United Nations and other intergovernmental organizations shall monitor, investigate, inform, and assist host nations, non-governmental organizations and every person in relation to environmental damage due to foreign and colonial military bases and related activities.

D. If governments are unable to resolve disagreements and the UN committee or other international organizations are unable to mediate disputes, governments operating foreign and colonial military bases and the host nations shall submit to the jurisdiction of the International Court of Justice for resolution of conflicts.

E. The principles in this Environmental Bill of Rights shall be reflected in international laws and treaties and other evolving international instruments.

F. These rights shall be reflected in military bases treaties, mutual defense treaties, access and cross-servicing agreements, visiting forces agreements, status of forces agreements, and other bilateral or multilateral military agreements between host nations and governments operating foreign and colonial military bases or conducting military activities on foreign territories.

Article VI. This Environmental Bill of Rights applies to all former, active and prospective foreign and colonial military bases until such undesirable and destructive institutions end.

Definitions

“Activities” include past, present and future military practices, trainings, drills, exercises, storage, disposal, accidents and any other actions leading to contamination.

“Characterization” is the process of gathering historical information as well as sampling. Characterizing shall use the precautionary principle and public partnership and allow persons, indigenous peoples, communities and host nations access to split samples.

“Cleanup” includes the planning, practice, implementation, operation and maintenance of safe, effective remediation, removal and destruction of hazardous substances, abandoned or stored wastes and equipment through processes and technologies that comport with Articles III and IV of the body of the Environmental Bill of Rights.

“Colonies” are defined as territories that have been acquired by foreign national governments and continued to be controlled without consent of their populations.

“Community” includes groups of people, affected by foreign and colonial military bases, defined by geography, culture and ethnicity, ties of family and clan, and/or shared values and concerns.

“Contamination” is defined as any media containing toxic and hazardous substances at non-naturally occurring levels.

“Environment” is an ecosystem, including all living and non-living things. This definition recognizes the interconnectedness of all living and non-living things.

“Environmental Justice” is defined as principles set forth in the People of Color Environmental Leadership Summit’s statement of the Principles of Environmental Justice signed October 27, 1991 in Washington, DC, the United States Executive Order on Environmental Justice, and other similar documents and orders.

“Host nation” is defined as any nation or colony in which a foreign or colonial military base is located.

“Military base” is defined to include all locations where any military or military related activities are or were conducted.

“Operation” is the past, present or future ownership of, or activity on and surrounding a foreign or colonial military base.

“Remedies” include financial compensation for all losses including pain and suffering as well as injunctive and declaratory relief.

“Welfare” is the physical, mental and spiritual well-being of humans and is to include protection of property, natural resources, economic opportunity and security, and peace of mind.

Addendum I: Applicable to the Government of the United States

Preamble

Whereas the governments of the United States, Great Britain, France, and the former Soviet Union together account for the vast majority of governments operating foreign and colonial military bases;

Whereas of these governments, the United States has the greatest portion of bases on foreign and colonial soil;

Whereas the United States has a well-documented history of unacceptable environmental practices at its overseas installations which now threaten the health, welfare and environment and well being of many persons, indigenous peoples and communities neighboring its foreign and colonial military bases;

Whereas the current practice by the United States of preparing Environmental Assessments for sites and activities on its foreign and colonial military bases is inadequate, lacks public oversight and often fails to take into account the full spectrum of potential hazards that would be normally uncovered in a typical United States domestic environmental investigation under the requirements of the federal toxic cleanup regulations;

Whereas the current practice of preparing studies that seek to identify toxic-free sites for economic development on contaminated former United States foreign and colonial military bases called “Environmental Baseline Surveys” is expensive and faulty and was adopted by host nations largely

as a result of the absence of United States cooperation in assessing the hazards to health and the environment posed by its closed foreign and colonial military bases;

Whereas the only adequate methodology is one that fully characterizes contamination;

Whereas it is well documented that the United States has withheld information on toxic contamination from persons, indigenous peoples, communities and nations and communities critical to their health, welfare and environment regarding its foreign and colonial military bases;

Whereas during past Status of Forces, Visiting Forces, Basing Agreements and similar agreements, the United States failed to release environmental information that would have likely resulted in the inclusion of requirements for environmental stewardship as well as contaminant and hazard remediation;

Whereas the statement “The United States is not obligated, when it returns facilities to [the host nation], to restore the facilities and areas to the condition in which they were at the time they became available to the United States armed forces, or to compensate [host nation] in lieu of such restoration,” which is often included in foreign basing agreements, bears no relationship to the cleanup of toxic contamination, the remediation of public health and environmental hazards and is a linguistic device used to by United States to evade its responsibility to protect human health and the environment;

Whereas it is established United States practice to deny its responsibility to adequately protect health, welfare and environment and compensate these victims.

Whereas the United States possesses the expertise, experience and financial resources to adequately remediate toxic contamination and hazards to health and the environment or has the ability to develop this expertise and experience which is often lacking in many of the nation’s hosting United States foreign and colonial military bases;

Whereas the United States has environmental justice regulations whose principles are not being applied at foreign and colonial military bases;

Now, Therefore Be It Resolved,

A uniform code of conduct for U.S. management of its foreign and colonial military bases internationally shall consist of the following articles:

Articles

Environmental Protection and Compliance

1. The United States shall protect the health, welfare and environment of persons, indigenous peoples, communities of nations and colonies hosting its overseas installation by using U.S. environmental standards as minimum thresholds for management. More stringent or conflicting host nation environmental regulations shall become ARARs (Applicable or Relevant and Appropriate Regulations) as set under U.S. standards for ARARs, and be consistent with Articles III and IV in the body of the Environmental Bill of Rights.

2. The United States shall provide persons, indigenous peoples, communities, host nations and non-governmental organizations with monthly environmental status reports detailing environmental protection, pollution prevention and compliance activities for all U.S. military facilities in that country, as well as any accidents, illnesses or other health, welfare and environmental or public health problems that may be related to the operations of the facility;

3. The persons, indigenous peoples and communities of nations hosting U.S. foreign and colonial military bases shall be accorded access to all relevant environmental protection and compliance reports, and shall be at no cost.

4. Host nation environmental and public health agencies shall have the right to independently inspect U.S. foreign and colonial military bases for environmental protection and compliance violations within 24 hours of providing notice to the local base command for normal inspections. In the event of a life-threatening or significant release of toxins or other hazardous materials, Host nations shall have immediate access to installations upon request. Determination of “significance of hazard” shall be at the discretion of the host nation.

5. The United States shall comply with environmental justice principles and regulations at foreign and colonial military bases.

Cleanup

6. Environmental investigations of foreign and colonial military bases shall fully characterize potential hazards associated with the base and related military activities and be conducted using the same protocols employed domestically within the United States. and be consistent with Articles III and IV in the body of the Environmental Bill of Rights.

7. The United States shall undertake a program of environmental cleanup at active and closed foreign bases that is at least fully compliant with current environmental restoration programs in the United States. More stringent or conflicting host nation environmental regulations shall become ARARs (Applicable or Relevant and Appropriate Regulations) as set under U.S. standards for ARARs. Further, these programs shall be consistent with Articles III and IV in the body of the Environmental Bill of Rights.

8. The United States shall move quickly to complete full environmental investigations and cleanup requirements, as outlined by federal regulations, for all its active and closed foreign bases. The process shall be modeled after the United States Superfund law for toxic cleanup, also known as the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), using the same milestones and studies. The United States shall complete Preliminary Assessments (a historical document review and interviews with current and/or former base employees to determine the potential for toxic contamination), Site Inspections (a visual survey of the facility used to identify potential hazards), Remedial Investigations (sampling surveys to determine the spread and severity of the contamination), and Feasibility Studies (to investigate goals and objectives for cleanup) in accordance with Articles III and IV in the body of the Environmental Bill of Rights.

9. The United States shall actively partner with the environmental and public health agencies of host nations to carry out these studies. The partnership may take the form of a bilateral task force comprised of representatives from corresponding environmental and public health agencies from both countries. Disputes between national agencies shall be referred to the respective secretaries and

ministers for negotiated resolution. and be consistent with Articles III and IV in the body of the Environmental Bill of Rights.

10. The United States shall provide the results of PA/SI and RI/ FS investigations to the environmental and health agencies of host nations and make copies of the documents available upon completion each stage of the process at public information repositories and directly to individuals at no cost. These repositories shall be outside the U.S. Embassy and foreign bases so as to allow easy public access to the information.

11. Risk assessment models, if used, shall be focused on strategies that prevent exposure and remediate problems as opposed to strategies focused on containment and exposure limitation.

Closed Bases

12. Environmental Baseline Surveys shall not be used to characterize base contamination unless it is done in concert with a CERCLA-type of investigation consistent with Articles III and IV in the body of the Environmental Bill of Rights.

13. The United States, together with the environmental and public health agencies of host nations, shall establish local community advisory committees to provide community feedback and input into base cleanup decision-making. These committees shall be drawn from local stakeholder groups and representative of grassroots citizenry, non-governmental organizations, industrial/business/ commercial interests and local authorities as described in the Final Report of the 1995 Federal Facilities Environmental Restoration Dialogue Committee and the 1996 joint Environmental Protection Agency and Defense Department guidance on Restoration Advisory Boards (Community-based cleanup advisory committees)

14. The results of the RI/FS studies shall be the basis for negotiation of cleanup management and compensation which are to be undertaken by a bilateral committee of counterpart public health, environmental, diplomatic, and military agencies. The results of these negotiations will be presented to the administrations of both the U.S. Government and host nation for approval. The results of these studies and negotiations are to be provided to the respective national legislatures upon completion of each phase of the process.

15. The use of national security exemptions shall not apply to the reporting and cleanup of hazardous, chemical ordnance, biological ordnance, unexploded ordnance or radioactive substances contaminating in-land, on-shore, and off-shore military sites. A notice of national security exemption for information release must be posted in the file for the site at all public document repositories and with the respective counterpart agencies.