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**SUBJECT: DOD POLICY AND PROCEDURES FOR THE REALIGNMENT
OF OVERSEAS SITES**

REFERENCE:

- A. SECDEF 131758Z JAN 92
- B. DEPSECDEF MEMO 14 DEC 91 (NOTAL)
- C. SECDEF 311635Z AUG 92 (NOTAL)
- D. ASD (P&L) MEMO 3 FEB 93 (NOTAL)
- E. OSD COMPTROLLER MEMO 17 JUN 91 (NOTAL)

1. Purpose: This message replaces Refs A, B, C and D, issues Secretary of Defense (SECDEF) policies and procedures, and assigns responsibilities for the change in status of all overseas sites that U.S. Department of Defense (DOD) personnel use and maintain.

2. Definitions.

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- A. Site.** Any single parcel of land, regardless of size, used and maintained by DOD.
- B. Facilities.** Individual or small groups of structures (e.g., warehouses, barracks, roads, runways, fuel storage tanks, recreation facilities, family housing) at a specific site.
- C. Overseas.** Real estate in foreign countries. Does not apply to U.S. possessions and territories.
- D. Realignment.** For the purpose of this message and any subsequent implementing instructions, “realignment” applies to all returns or partial return to host nation control, or conversion to standby status of overseas sites operated or maintained by U.S. Forces.
- E. Residual Value.** “Residual Value” represents the negotiated monetary or non-monetary compensation the DOD receives from host nations for DOD-funded improvements made at sites vacated by the U.S. because of differing provisions in international agreements. The context in which the term residual value is used may vary somewhat from country to country.

3. Policy: The following policies shall apply to all overseas site realignments and are intended to be consistent with the provisions of existing treaties, base rights agreements, status of forces agreements (SOFAs), and other international agreements. In the event of a conflict between this message and a law of the U.S. or treaty or international agreement to which the U.S. is a party, the law, treaty, or international agreement shall govern. Specific political, legal, or procedural issues not covered in bilateral agreements, prior DOD decisions, or this message will be resolved on a case-by-case basis and, as required, elevated to an appropriate level of authority through the specific theater chain of command. Specific policies are:

- A. Overseas sites operated and maintained by the Department of Defense which are no longer required should be returned promptly to the host government.
- B. Only the SECDEF or the Deputy Secretary of Defense (DEPSECDEF) will approve overseas site realignment actions including the timing of public announcements.
- C. DOD shall endeavor to recover the residual value of U.S. funded improvements at overseas sites from host governments to the maximum extent possible, consistent with applicable U.S. law, treaties and other international agreements, or if the agreement is silent. Such recovery shall be in the form of monetary payments unless the U.S. has a legal obligation to accept non-monetary compensation. DOD personnel may not contact or negotiate with a host government concerning non-monetary compensation without the prior approval of the SECDEF or the DEPSECDEF.
- D. The Major Component must eliminate known imminent and substantial dangers to human health and safety. These corrective actions must be initiated prior to the return of a site to the host nation. The decision as to whether a contaminated site poses an

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imminent and substantial danger will be made by the installation commander after consultation with the appropriate medical authority and the U.S. environmental executive agent for the respective host nation. Additional known contamination at sites scheduled for turnover will be documented by U.S. personnel and the documentation provided to the host government upon return of the site.

4. General Guidance. Existing treaties, base rights agreement, status of forces agreements (SOFAs), and other international agreements will govern negotiations with host governments and determine procedures for the realignment of U.S. sites. The Deputy Under Secretary of Defense (Industrial Affairs & Installations) (DUSD/IA&I) is responsible for implementing the directions contained in this message and providing additional guidance when determined necessary. Therefore, decisions to realign overseas sites shall be coordinated with the DUSD/IA&I before any action is undertaken to commence realignment.

A. Recommendations for overseas site realignments will be kept classified throughout the decision-making process. These recommendations will be in the form of the quarterly reports required in subparagraph 6.A. Recommendations may not be released to or discussed with host governments until host nation notification on DOD overseas site intentions has been accomplished by the Under Secretary of Defense (Policy) (USD/P) through the State Department or approved by the SECDEF. When necessary, recommendations may be addressed and reported more frequently.

B. USCINCEUR and CINCUSACOM will inform the appropriate major NATO commanders of the U.S. intent to return facilities funded through the NATO infrastructure program at the earliest possible time in order to minimize operating and maintenance expenditures. However, prior to notifying NATO commanders, DOD/State notification to the host nation is required where the return of major NATO facilities could have political repercussions due to the impact on local economies and/or the displacement of large numbers of local national employees. Additionally, formal host nation notification is required if NATO facilities are collocated with U.S. facilities at a site that will be fully or partially returned to host nation control. For all other circumstances, the CINCs may transmit U.S. intentions to vacate NATO facilities directly to the major NATO commanders.

C. The procedures outlined in subparagraphs 4.A. and 4.B. do not apply to the routine return or exchange of small parcels of land (e.g., easements, right-of-way) on existing sites that U.S. Forces will retain. Additionally, the procedures do not apply to real estate leased from private parties unless the termination of the lease will measurably affect U.S. manpower levels, operations, local economies, local national employment, and /or generate significant national publicity. These procedures do not apply to the use/return of temporary facilities made available by host governments for U.S. use during specific operations (e.g., Desert Storm).

D. Unless a change in status (SECDEF announced sites for realignment) is envisioned, sites do not have to be resubmitted for approval. For example, once a site is announced

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for a reduction in operations, further reduction does not have to be submitted for approval. Changing the status from reduced operations to a return, return to retain, or return to reduced operations, requires host nation consultation as well as SECDEF/DEPSECDEF approval. Note: adjustments or changes to quarterly reports, required in subparagraph 6.A., affecting the status of a nominated site must follow the same procedures, considerations and coordination as the original recommendation.

E. Following SECDEF or DEPSECDEF decision to return a site, U.S. funds will not be spent at those sites for maintenance, repair or environmental restoration beyond the minimum necessary to sustain current operations or eliminate known imminent and substantial dangers to human health and safety. The decision as to whether a contaminated site poses an imminent and substantial danger will be made by the installation commander after consultation with the appropriate medical authority and the U.S. environmental executive agent for the respective host nation. Additional known environmental contamination, which may require cleanup or remediation, at sites scheduled for turnover will be documented by U.S. personnel and the documentation provided to the host government upon return of the site. Depending on the terms of the governing international agreement, environmental cleanup costs for U.S. caused environmental contamination may be included in the host nation's overall damage claim.

F. Every effort will be made to expedite the selection, nomination, review, approval, and return process in order to minimize U.S. operating and maintenance expenses at sites that will be returned to host nation control. Theater military commanders will introduce proposals for the realignment of sites on a quarterly basis. Quarterly reports should be annotated where expediency is desired and/or additional cost to the U.S. for foreign national employees will be incurred if public announcement is after a specific date.

5. Overseas site realignment nomination procedures:

A. Nomination: The services, subordinate unified commands, theater service component commands, and defense agencies in each overseas theater or country shall initiate the nomination of sites to be realigned. All overseas site proposals must be fully coordinated with theater commands, parent services/agencies, and, at the local level, with base commanders. All nominations must be forwarded to the geographic unified commander through the appropriate theater chain of command. Reports will be classified appropriately to protect overseas realignment proposals until SECDEF decision and public announcement.

(1) Geographic Unified Commanders are responsible for reviewing Service and other DOD Component nominations and the recommendations of the theater subordinate commands. Geographic Unified Commanders are also responsible for screening all in-theater U.S. government agencies for possible alternative uses for the facilities proposed for return. The Geographic Unified Commanders will forward nominations to the Joint Staff on a quarterly basis at a minimum.

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(2) **The Joint Staff** will review all geographic CINC nominations and coordinate the nominations with the relevant CINCs and Service Chiefs to afford them an opportunity to review nominations in light of considerations such as budget constraints, long term force planning and force reduction in other command areas. Coordinated Joint Staff recommendations will be forwarded to the USD(P).

(3) **The USD(P)** is responsible for OSD and interagency coordination. After review, the USD(P) will transmit DOD overseas site proposals to U.S. embassies through the Department of State to consult with or inform host governments of U.S. intentions. Embassies will forward comments and recommendations to the USD(P) through the State Department. The OSD and the Joint Staff will consider all recommendations, and the USD(P) will submit final proposal to the SECDEF.

(4) **Alternate procedures for Japan and Korea:** After the U.S. Commander in Chief, Pacific Command, submits the quarterly recommendations for the realignment of sites in Japan and Korea and following Joint Staff and OSD review, the USD(P) will submit nominations directly to SECDEF for approval without seeking host nation consultation. Upon SECDEF approval, the USD(P) will submit nominations directly to SECDEF for approval without seeking host nation consultation. Upon SECDEF approval, the USD(P), through the appropriate chain of command, will authorize the Commander U.S. Forces Korea (USFK) and/or the Commander, U.S. Forces Japan (USFJ) to commence negotiations for the reduction or return of facilities through the appropriate SOFA committees. (Committee/panel negotiation will equate to host nation consultation.) Upon agreement of the committee, USFK and USFJ will notify the USD(P), via USCINCPAC and the Joint Staff, of the decision. The USD(P) will notify the OASD Public Affairs (OASD/PA) of the decision for the purpose of the SECDEF public announcement. Appropriate parties will be notified of the scheduled public announcement as provided for in Para 5.A.(5).

(5) **Following SECDEF or DEPSECDEF approval, OSD will** notify the military commands, Congress, host governments, and the press. Public announcement of a decision to realign sites will be made by OASD(PA). Consistent with OASD(PA) guidance, geographic CINCs may make simultaneous press releases; however, all announcements and proposed questions and answers must first be approved by OASD(PA). Sufficient time should be made available prior to OASD(PA) release to allow Unified Commands and embassies to make pre-publicity notification to host governments.

B. Execution. Following public notification, theater commanders or their designated or delegated real estate executive agents will begin negotiations with host governments, without delay, in accordance with the provisions of existing base rights and stationing agreements, to meet CINC schedules, and the direction provided in this message. Responsibilities include joint inspection of facilities, facilities transfer, disposition of remaining U.S. property, calculation of the value of the facilities, and conduct of negotiations. Geographic CINCs have the authority to conclude agreements on the

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transfer of property and residual value monetary compensation settlements. Unresolved issues will be elevated to higher command as required.

C. Negotiations. For the purposes of establishing a starting point for negotiations with host governments, the Services will determine the sum of all U.S. capital improvements (U.S. funded construction or improvements to buildings, structures, utilities, pavements, and installed equipment) made at a specific site. The total, adjusted for inflation, currency fluctuation, and facility age and condition, is considered the current value of the improvements. The guidelines described below afford the best opportunity to negotiate for maximum compensation to the U.S.

- (1) DOD personnel may not contact or negotiate with a host government concerning non-monetary recovery without the prior approval of SECDEF or DEPSECDEF.
- (2) Compensation will be negotiated on a site specific basis and not in the aggregate for each country.
- (3) All host nation claims for damage will be challenged unless clearly substantiated. Claims which are substantiated will be resolved in accordance with applicable international agreements.
- (4) In addition to discussions covering compensation for U.S. funded facilities and host nation claims, negotiations may include:
 - (A) Schedule for departure of personnel, weapons systems, equipment, and material.
 - (B) Inventory and disposition of U.S. property in accordance with DOD publication 4000.25-1-H (MILSTRIP), Chapters 9 and 10.
- (5) Residual value shall normally be sought as a cash payment which must be deposited into the DOD Overseas Military Facility Investment Recovery Account, established in Section 2921 of Public Law 101-501. Procedures for receipt of funds from host governments and deposits to the Recovery Account are covered in a June 17, 1991, memorandum from the DOD Comptroller to Service Assistant Secretaries for Financial Management (Ref. E).
- (6) While it is DOD intent to seek residual value compensation primarily in the form of cash payments, the SECDEF/DEPSECDEF will consider requests to negotiate with host nations for residual value in the form of "Payment-in-Kind" on a case by case basis. Requests for the authority to negotiate for non-monetary compensation in the form of residual value "Payment-in-Kind" shall follow the same approval chain as the nomination procedures outlined in Para 5.A., through the Joint Staff to the DUSD/IA&I. The DUSD/IA&I has responsibility for OSD coordination and requesting SECDEF/DEPSECDEF approval. The package does not require

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coordination outside the Department of Defense. Payment-in-Kind nomination packages:

- (A) Must be submitted to the SECDEF/DEPSECDEF for approval prior to any form of Payment-in-kind negotiation with the host nation;
- (B) Shall be classified;
- (C) Shall be used for DOD military construction (Exceptions will be considered on a case by case basis);
- (D) When used for military construction, shall represent a reinvestment of U.S. dollars which are to be included in residual value negotiations at a later time if the U.S. determines it no longer requires the facility;
- (E) Will contain a list of the proposed project(s) and estimated cost(s), the alternative construction programs available (e.g., DOD MILCON, host nation funded construction, host nation relocation funding) and why the alternative programs were not appropriate or considered for these projects, status of design package, length of time to design and/or construct; and,
- (F) Should not exceed the anticipated military service's or agency's estimated residual value of their facilities vacated, unless otherwise justified. Use of another component's residual value shall generally be avoided where possible; however, distribution of residual value proceeds shall be on the basis of urgency/priority of need as determined by the Joint Staff in consultation with the geographic CINCs. Military service's or agency's headquarters agreement to share the use of a component's residual value must be achieved prior to project submission to the geographic CINC.

6. Reporting Requirements:

A. All geographic CINCs will submit quarterly reports (Report Control Symbol: DD-P&L(Q)) to the Joint Staff. Negative reports are required. All quarterly reports will include for each site nominated data elements 1 through 15. Data elements 16 through 23 shall be provided, as information becomes available, in subsequent quarterly reports. The data elements are:

- (1) Country/Host Nation
- (2) Parent or Associated Base (Essential as relates to site)
- (3) Specific Site Nominated
- (4) Service/Defense Agency
- (5) Designated Theater Commander
- (6) Disposition (Return, reduce operations, standby)
- (7) Authorized Military Personnel
- (8) Authorized U.S. Civilian Personnel

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- (9) Authorized Foreign National ;Employees
- (10) Proposed Return Date (Quarter/Fiscal Year)
- (11) U.S. Funded Improvement (In current dollars)
- (12) Planned Replacement Value
- (13) Environmental Compliance/Cleanup Projects and Cost Estimate
- (14) Criticality of Timing of Announcement (e.g., Date foreign national severance pay will move into an additional quarter of pay)
- (15) Dollar amount of additional quarter of foreign national severance pay if announcement delayed
- (16) Date residual value negotiations began, if applicable (“Not Applicable” must be indicated with a reason, e.g., “Not provided for in SOFA”)
- (17) In-going Residual Value Posture
- (18) Potential Amount of Receipts
- (19) Final Negotiated Value
- (20) Reason for Delta (Difference between in-going and final)
- (21) Date of Receipt of Payment from Host Nation
- (22) Actual U.S. dollars deposited or estimate of in-kind support
- (23) Date deposited into the DOD Recovery Account

B. Upon approval by the SECDEF/DEPSECDEF of a residual value Payment-in-Kind request, the DUSD/IA&I will be kept apprised of the progress (At least on a quarterly basis) and results of the negotiations. Information, at a minimum, should contain: initial U.S. position; result; reason for delta (if any); conditions/obligations of negotiation for each side (e.g., recognition that payment-in-kind represents a reinvestment of U.S. dollars and therefore will be subject to future U.S. residual value claim if the U.S. should decide to vacate the facility); and agreed upon completion schedules.

C. Upon completion and U.S. acceptance of the in-kind payment, such as newly constructed facility (ies), a final report shall be provided to DUSD/IA&I summarizing the payment-in-kind agreement. At a minimum, the report will include a description of the payment-in-kind provided and final cost to host nation.

D. DUSD/IA&I may request additional information or clarification of the information provided in relationship to specific sites nominated to the SECDEF.