

Defense Logistics Agency Instruction



DLAI 4103

Effective: October 18, 2004

Modified: December 10, 2009

Environmental Considerations in DLA Actions Abroad

Reference: See [Enclosure 1](#).

1. Purpose:

This Instruction establishes and implements policies, processes, and procedures necessary to the effective, efficient, and economical conduct of official Agency business. It implements DoDD 6050.7, Environmental Effects Abroad of Major DoD Actions, which provides policy and procedures to enable DoD officials to be informed and take account of environmental considerations when authorizing or approving certain major Federal actions that do significant harm to the environment of locations outside the United States (U.S.), and does not address environmental considerations of actions taken in the course of armed conflicts.

This process is enacted so that DLA can take environmental considerations into account before implementing major actions abroad. The intent of this Instruction is to establish DLA policy, assign responsibilities, and provide procedures for the review of environmental effects of major DLA actions outside the U.S. and its territories and possessions, and establish internal procedures to enable DLA decision-makers to take environmental considerations into account.

The outputs of this process are environmental documents, such as environmental studies and reviews, environmental assessments (EAs), or environmental impact statements (EISs), all of which are analytical documents that describe the estimated environmental impacts of actions that DLA plans outside the U.S. and its territories and possessions.

2. Applicability: This applies to Headquarters (HQ) DLA and DLA Field Activities (FAs) as well as DLA contractors tasked with carrying out actions in the global commons or within a foreign nation.

3. Policy:

a. HQ DLA and DLA FAs will act with care in the global commons (as defined in Paragraph 5 of this Chapter) and within the jurisdiction of a foreign nation. DLA will take into account environmental considerations when it acts in these areas in accordance with environmental review procedures set forth in this Instruction as required by Executive Order (E.O.) 12114,

[Environmental Effects Abroad of Major Federal Actions](#), and DoDD 6050.7, [Environmental Effects Abroad of Major DoD Actions](#).

b. DoD 4715.5-G, [Overseas Environmental Baseline Guidance Document](#), Status of Forces Agreements (SOFA), other applicable international standards, and Final Governing Standards (available from <https://www.denix.osd.mil/>), issued by DoD Executive Agents for individual countries, apply to activities outside the continental U.S.

c. DLA conducts different types of activities which may or may not require environmental review under this Instruction. These include the transportation and storage of material and supplies outside the U.S., construction and operation of facilities within the boundaries of foreign nations, sale or donation of excess material and supplies to foreign nations, and the disposal of waste outside the U.S.

4. Responsibilities: Responsibilities are included in section 5.

5. Procedures: Procedures and responsibilities are described below. Additional Information is included at [Enclosure 2](#).

a. The HQ DES Staff Director, Environment, Safety, and Occupational Health (DES-E), will:

a.1. Exercise primary staff responsibility for coordinating and monitoring activities subject to environmental review procedures.

a.1.1. Determine the level of environmental review that is required.

a.2. Serve as the single point of contact for matters pertaining to this Instruction.

a.3. Resolve issues regarding the need for environmental documents prescribed in this Instruction.

a.4. Prepare environmental documents for proposed actions abroad for which DES is the proponent.

NOTE: A FA would normally be the proponent for most actions; however, DES would be the proponent on broad actions that might have wide implications across the Agency.

a.5. Receive environmental studies, environmental reviews, and other environmental documents from FAs, and arrange for coordination with or distribution to foreign governments or external agencies, as required.

a.6. Provide assistance and advice on the preparation and processing of environmental documents required by this Instruction, and ensure that these documents fulfill the requirements of DoDD 6050.7.

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a.7. Determine the type of area affected by the action. Determine whether the affected area is the global commons, a foreign country, or a protected global resource (as defined in Paragraph 5 of this Chapter).

a.7.1. A major action affecting the global commons will require an EA or an EIS, or both, unless it is a categorically excluded action.

a.7.2. A major action affecting a foreign country or a protected global resource will require either an environmental study or an environmental review. No action is required under this Instruction with respect to actions that affect only the environment of a participating or otherwise involved foreign nation, and that do not involve providing products or physical projects producing principal products, emissions, or effluents that are prohibited or strictly regulated in the U.S.

a.8. Prepare appropriate environmental documents.

a.8.1. For major actions affecting the global commons, prepare and process EAs and EISs following the procedures set forth in DLAR 1000.22.

a.8.1.1. Public hearings are not required for the types of actions covered by EAs and EISs; however, consideration should be given to holding them when definite benefit would be realized by DLA.

a.8.1.2. Factors to be considered in such a determination include foreign relations sensitivities; whether the hearings would be an infringement or create the appearance of infringement on the sovereign responsibilities of another government; requirements of domestic and foreign governmental confidentiality; requirements of national security; whether meaningful information could be obtained through hearings; time considerations; and requirements for commercial confidentiality.

b. For major actions affecting a foreign country or protected global resource, prepare an environmental study or an environmental review.

b.1. Environmental studies are bilateral or multilateral studies of the environmental consequences of a proposed action prepared by the U.S. and one or more foreign nations, or by an international body or organization in which the U.S. is a member or participant. Because it is a cooperative undertaking, the study may be best suited to those types of actions involving the provision of strictly regulated or prohibited products or projects to a foreign nation and actions that affect a protected global resource.

b.2. Environmental reviews are concise reviews of the environmental issues involved in a proposed action that are unilaterally prepared by the U.S. While this type of document may be used for any of the actions, it may be uniquely suitable to actions that have the potential to affect the environment of a nation not involved in the undertaking because it is prepared unilaterally by the U.S.

b.3. Make the environmental documents available to the public. Considerations will be given to informing any foreign government of the availability of environmental documents

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pertaining to the global commons. When determined to be appropriate, communications concerning environmental agreements and other formal agreements concerning environmental matters will be coordinated with the Department of State. Within DLA, such coordination will be effected through DES-E. Informal, working-level communications, and arrangements are not included in this coordination requirement.

b.4. Approve or disapprove the proposed action or the reasonable alternative actions considered in the environmental documents.

c. The HQ DLA Office of General Counsel will provide advice and assistance, as requested, on the requirements of E.O. 12114, this Instruction, and other pertinent laws and regulations.

d. The HQ DLA Director, Office of Public Affairs (DP), and FA DP will:

d.1. Make DLA EISs available to the public except for portions that are classified.

d.2. Coordinate the public release of DLA EISs with the Office of the Secretary of Defense (SECDEF) to ensure that appropriate security procedures are observed.

d.3. Provide support, as outlined in DLA One Book, [Environmental Support](#).

e. The DLA J/D codes and DES will:

e.1. Ensure that regulations and other policy issuances are reviewed for consistency with this Instruction.

e.2. Determine the need for environmental documents on proposed HQ DLA actions that may significantly affect the global commons, a protected global resource, or the environment of another nation, and advise DES-E.

f. The Heads of DLA FAs will:

f.1. Ensure that regulations and other policy issuances are reviewed for consistency with this Instruction.

f.2. Prepare and process environmental documents on proposed FA actions that will significantly affect the global commons, a protected global resource, or the environment of another nation.

6. Effective Date: October 18, 2004

Director, DLA Enterprise Support

Enclosure 1
References

1. DLA Regulation (DLAR) 1000.29, Environmental Considerations in DLA Actions Abroad, July 14, 1981, superseded.
2. DLA One Book process chapter, Environmental Considerations in DLA Actions Abroad, last review August 11, 2008, superseded.
3. E.O. 12114, Environmental Effects Abroad of Major Federal Actions, <http://www.archives.gov/federal-register/codification/executive-order/12114.html>.
4. DoDD 6050.7, Effects Abroad of Major DoD Actions, <http://www.dtic.mil/whs/directives/corres/html/605007.htm>.
5. DoD 4715.5-G, Overseas Environmental Baseline Guidance Document, May 2007, (<http://www.dtic.mil/whs/directives/corres/html/471505g.htm>)
6. SOFA, other applicable international standards, and Final Governing Standards (available from <https://www.denix.osd.mil/>).
7. DLAR 1000.22, Environmental Considerations in DLA Actions in the U.S., <http://www.dla.mil/dlaps/dlar/r1000.22.pdf>.
8. DoD Instruction 4715.9, Environmental Planning and Analysis, May 3, 1996, <http://www.dtic.mil/whs/directives/corres/html/471509.htm>.

Enclosure 2
Additional Information

1. Definitions.

1.1. Environment. As used in this Instruction, the natural and physical environment, excluding social, economic, and other environments.

1.2. Federal Action. An action implemented or funded directly by the U.S. Government.

1.3. Foreign Nation. Any geographic area (land, water, and airspace) under the jurisdiction of one or more foreign governments; any area under military occupation by the U.S. alone or jointly with any other foreign government; and any area that is the responsibility of an international organization of governments. "Foreign nation" includes contiguous zones and fishery zones of foreign nations. "Foreign government" in this context includes governments that exercise governmental power outside the U.S., regardless of whether recognized by the U.S., political factions, and organizations.

1.4. Global Commons. Geographical areas that are outside the jurisdiction of any nation, and include the oceans outside territorial limits and Antarctica. Global commons do not include contiguous zones and fishery zones of foreign nations.

1.5 Major Action. An action of considerable importance involving substantial expenditures of time, money, and resources, that affects the environment on a large scale, or has substantial environmental effects on a more limited geographical area; and that is substantially different or a significant departure from other actions, previously analyzed with respect to environmental considerations and approved, with which the action under consideration may be associated. Deployment of ships, aircraft, or other mobile military equipment is not a major action for the purpose of this Instruction.

1.6. Protected Global Resources. Natural or ecological resources of global importance designated for protection by the President, or by the Secretary of State, in those instances where the resources are protected by an international agreement binding on the U.S.

1.7. U.S. All states, territories, and possessions of the U.S., and all water and airspace subject to the territorial jurisdiction of the U.S. The territories and possessions of the U.S. include the Virgin Islands, American Samoa, Wake Island, Midway Island, Guam, Palmyra Island, Johnston Atoll, Navassa Island, and Kingman Reef. For the purpose of this Instruction, U.S. also includes the Commonwealth of Puerto Rico and the Commonwealth of Northern Mariana.

2. Environmental review procedures for actions affecting the global commons.

2.1. General.

2.1.1. When an action is determined to be a major DLA action that will significantly harm the environment of the global commons, an EIS will be prepared to enable the DLA decision-making officials to be informed of the pertinent environmental considerations. If an action

requiring an EIS also has an effect on the environment of a foreign nation, or a resource designated as one of global importance, the statement need not consider or include this effect. The procedures for considering the latter types of effects are set forth in Paragraph 3.

2.1.2. The basic guidance and procedures to be followed in evaluating the environmental consequences of an action affecting the global commons are identical to those prescribed for evaluating DLA actions in the U.S. (DLAR 1000.22). Environmental documents are to be submitted to DES-E in accordance with procedures in DLAR 1000.22. The instructions pertaining to the preparation and processing of EISs, as further amplified in the following paragraphs, are to be observed when major DLA actions covered by this Instruction are being considered.

2.2. Emergencies. When emergency circumstances make it necessary to take action that does significant harm to the environment without meeting the requirements of this Instruction, the DLA proponent of the action will notify DES-E without delay, who in turn shall promptly consult with the Assistant Deputy Under Secretary of Defense (ADUSD) (Environment, Safety and Occupational Health [ESOH]). Actions covered under this provision include those that must be taken to promote the national defense or security and actions necessary for the protection of life or property.

2.3. Categorical exclusions. DoD has the authority to issue a list of the types of actions that normally do not individually or cumulatively affect the environment of the global commons adversely. When a type of action is officially approved by DoD as a categorical exclusion and made available by DES-E, an environmental document is not required. DLA staff offices and FAs identifying recurring type actions that have been determined to have no adverse effect on the global commons are to submit their recommendations and an accompanying justification to DES-E, who in turn will forward them to ADUSD(ESOH) for approval.

2.4. Classified information. EAs and EISs that address classified proposals will be safeguarded, and classified information will be restricted from public dissemination, in accordance with procedures contained in DoDD 5200.1, [DoD Information Security Program](#), December 13, 1996, which implements E.O. 12065. The requirements of the E.O. take precedence over any requirement of disclosure in this Instruction or DLAR 1000.22. Because only unclassified portions of environmental documents may be made available to the public, every effort will be made to separate classified from unclassified facts and conclusions related to the proposed action so that the former will only be provided to those decision-makers with a "need-to-know."

2.5. Foreign Governments. Considerations will be given to informing any foreign government of the availability of environmental documents pertaining to the global commons. When determined to be appropriate, communications concerning environmental agreements and other formal agreements concerning environmental matters will be coordinated with the Department of State. Within DLA, such coordination will be effected through DES-E. Informal, working-level communications, and arrangements are not included in this coordination requirement.

3. Environmental review procedures for actions affecting foreign nations and protected global resources.

3.1. General.

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3.1.1. The review procedures contained in this paragraph are those pertaining to major DLA actions that significantly harm the environment of a foreign nation or a protected global resource. In general, the requirements of this Instruction apply only to the following types of actions:

3.1.1.1. Major Federal actions significantly affecting the environment of a foreign nation not participating with the U.S. and not otherwise involved in the action.

3.1.1.2. Major Federal actions that are determined to do significant harm to the environment of a foreign nation because they provide to that nation:

3.1.1.2.1. A product, or involve a physical project that produces a principal product, emission, or effluent, that is prohibited or strictly regulated by Federal law in the U.S. because its toxic effects on the environment create a serious public health risk (included in the category of "prohibited or strictly regulated" are materials such as asbestos, vinyl chloride, acrylonitrile, isocyanates, polychlorinated biphenyls, mercury, beryllium, arsenic, cadmium, and benzene).

3.1.1.2.2. A physical project that is prohibited or strictly regulated in the U.S. by Federal law to protect the environment against radioactive substances.

3.1.1.3. Major Federal actions outside the U.S. that significantly harm natural or ecological resources of global importance designated for protection by the President or, in the case of such a resource protected by international agreement binding on the United States, designated for protection by the Secretary of State. Such determinations by the President or the Secretary of State will be provided by DES-E as they are made available.

3.1.1.4. No action is required under this Instruction with respect to actions that affect only the environment of a participating or otherwise involved foreign nation and that do not involve providing products or physical projects producing principal products, emissions, or effluents that are prohibited or strictly regulated in the U.S.

3.2. Review procedures. Two types of environmental documents shall be used to consider impacts on the environment of actions covered by this paragraph.

3.2.1. Environmental Studies. Bilateral or multilateral studies of the environmental consequences of a proposed action prepared by the U.S. and one or more foreign nations, or by an international body or organization in which the U.S. is a member or participant. Because it is a cooperative undertaking, the study may be best suited to those types of actions involving the provision of strictly regulated or prohibited products or projects to a foreign nation and actions that affect a protected global resource.

3.2.2. Environmental Reviews. Concise reviews of the environmental issues involved in a proposed action that are unilaterally prepared by the U.S. While this type of document may be used for any of the actions identified above in Subparagraph 3.1.1.1., it may be uniquely suitable to actions that have the potential to affect the environment of a nation not involved in the undertaking because it is prepared unilaterally by the U.S.

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3.3. Exemptions. Exemptions from the provisions of this Instruction include the general exemptions provided under E.O. 12114, and those approved by DoD.

3.3.1. General Exemptions.

3.3.1.1. Actions determined by DLA not to do significant harm to the environment outside the U.S. or to a designated resource of global importance.

3.3.1.2. Actions taken by the President, including actions taken within DoD to prepare or assist in preparing recommendations, advice, or information for the President. Not included are actions taken within DLA to implement or carry out these instruments and issuances after they are promulgated by the President.

3.3.1.3. Actions taken by or pursuant to the direction of the President or a cabinet officer in the course of armed conflict.

3.3.1.4. Actions taken by or pursuant to the direction of the President or a cabinet officer when the national security or national interest is involved.

3.3.1.5. The activities of the intelligence components utilized by the SECDEF under E.O. 12036.

3.3.1.6. The decisions and actions of the ASD(ISA), the Defense Security Cooperation Agency, and the other responsible offices within DoD components, with respect to arms transfers to foreign nations. The term "arms transfers" includes the grant, loan, lease, exchange, or sale of Defense articles or Defense services to foreign governments or international organizations, and the extension or guarantee of credit in connection with these transactions.

3.3.1.7. Votes and other actions in international conferences and organizations.

3.3.1.8. Disaster and emergency relief actions.

3.3.1.9. Actions involving export licenses, export permits, or export approvals, other than those relating to nuclear activities. These include advice provided by DoD components to the Department of State with respect to the issuance of munitions export licenses under section 38 of the Arms Export Control Act, advice provided by DoD components to the Department of Commerce with respect to the granting of export licenses under the Export Administration Act of 1969, and direct exports of defense articles and services by DLA to foreign governments and international organizations that are exempt from munitions export licenses under section 38 of the Arms Export Control Act. The term "export approvals" does not mean or include direct loans to finance exports.

3.3.1.10. Actions relating to nuclear activities and nuclear material, except actions providing a nuclear production or utilization facility to a foreign nation, as defined in the Atomic Energy Act of 1954, as amended, or a nuclear waste management facility.

3.3.2. DoD Exemptions. The following types of exemptions may be approved under the authority given by the SECDEF.

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3.3.2.1. Case-by-Case Exemptions. Specific exemptions may be required because of emergencies, national security considerations, exceptional foreign policy requirements, or other special circumstances that preclude or are inconsistent with the preparation of environmental documents and taking other actions prescribed by this Instruction. The following procedures will be observed in obtaining these exemptions:

3.3.2.1.1. Emergency Actions. Actions taken to promote the national defense or security that cannot be delayed, and actions necessary for the protection of life or property. Such exemptions may be approved on a case-by-case basis only by the Director, DLA. However, a report of the emergency action will be made as soon as feasible to ADUSD(ESOH) who shall undertake necessary consultation with the Department of State and the Council on Environmental Quality.

3.3.2.1.2. Other Actions. National security considerations, exceptional foreign policy requirements, and other special circumstances not identified in Subparagraph 3.3.2.1.1. above, may preclude or be inconsistent with the preparation of environmental documents. In these circumstances, the Director, DLA, is authorized to exempt a particular action from the environmental documentation requirements of this Instruction after obtaining the prior approval of ADUSD(ESOH).

3.3.2.2. Class Exemptions. Circumstances may exist where a class exemption for a group of related actions is more appropriate than a specific exemption. Class exemptions may be established by ADUSD(ESOH). Class exemptions will be made available by DES-E, as they are approved.

3.3.2.3. Categorical Exclusions.

3.3.2.3.1. DoD is authorized by E.O. 12114 to provide for categorical exclusions, which are a category of actions that normally do not, individually or cumulatively, do significant harm to the environment. If an action is covered by a categorical exclusion, no environmental document is required. Categorical exclusions will be established by ADUSD(ESOH).

3.3.2.3.2. DLA organizations and FAs identifying recurring actions that do not significantly harm the environment protected under the provisions of this enclosure shall forward nominations and accompanying justification to DES-E. Categorical exclusions will be made available by DES-E, as they are approved.

3.4. Environmental Studies.

3.4.1. General.

3.4.1.1. The requirements with respect to the preparation, format, content, and distribution of environmental studies are flexible. The specific procedures must be determined on a case-by-case basis and may be modified where necessary to:

3.4.1.1.1. Enable DLA to act promptly. Considerations such as national security and foreign government involvement may require prompt action that must take precedence in the environmental review process.

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3.4.1.1.2. Avoid adverse impacts on relations between the U.S. and foreign governments and international organizations.

3.4.1.1.3. Avoid infringement or the appearance of infringement on the sovereign responsibilities of another government. The collection of information and the preparation and distribution of environmental documentation for actions in which another nation is involved, or with respect to the environment and resources of another nation, may be viewed by that nation as an interference in its internal affairs and its responsibility to evaluate requirements with respect to the environment, unless done with proper regard to the sovereign authority of that nation.

3.4.1.1.4. Ensure that consideration is given to:

3.4.1.1.4.1. Requirements of governmental confidentiality. This refers to the need to protect sensitive foreign affairs information and information received from another government with the understanding that it will be protected from disclosure regardless of its classification.

3.4.1.1.4.2. National security requirements. This refers to the protection of classified information and other national security interests.

3.4.1.1.4.3. Availability of meaningful information. Information on the environment of foreign nations may be unavailable, incomplete, or not susceptible to meaningful evaluation, particularly where the affected foreign nation is not a participant in the analysis. This may reduce or change substantially the normal content of the environmental study.

3.4.1.1.4.4. The extent of DLA participation and its ability to affect the decision made. The utility of the environmental analysis and the need for an in-depth review diminishes as DoD's role and control over the decision lessens.

3.4.1.1.4.5. International commercial, commercial confidentiality, competitive, and export promotion factors. This refers to the requirement to protect domestic and foreign trade secrets and confidential business information from disclosure. Export promotion factors include the concept of not unnecessarily hindering U.S. exports.

3.4.2. Content. An environmental study is an analysis of the likely environmental consequences of the proposed action that is to be considered in the decision-making process. It includes a review of the affected environment, predicted effects of the action, significant measures to be taken to avoid environmental harm or otherwise to better the environment, and significant environmental considerations and actions to be taken by the other participating nations, bodies, or organizations to protect or enhance the environment, if any.

3.4.3. Preparation. A judgment will normally be made in consultation with concerned foreign governments or organizations as to whether the proposed action is one that would do significant harm to the environments covered by this enclosure. If a negative decision is made, the file will be documented with a record of that decision and the decision-makers who participated. If a decision is made to prepare a study, no action concerning the proposal may be taken that would do significant harm to the environment, until the study has been completed and the results considered.

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3.4.4. Coordination. Communications with foreign governments concerning environmental studies will be coordinated through DES-E. Informal, working-level communications and arrangements are not included in this coordination requirement.

3.4.5. Study Distribution. Subject to the constraints in Subparagraph 3.4.1. above, and except where classified information is involved, environmental studies will be made available to the Department of State, the Council on Environmental Quality, other interested Federal Agencies, and on request, to the public in the U.S. Documents will be submitted to DES-E for necessary distribution. No distribution is required prior to the preparation of the final version of the study, or prior to implementing the action covered by the study.

3.4.6. Classified Information. Classified information will be safeguarded from disclosure.

3.5. Environmental Reviews.

3.5.1. General.

3.5.1.1. The guidance on the preparation, coordination, and distribution of environmental studies provided above in Subparagraph 3.4., also applies to environmental reviews.

3.5.1.2. Content. An environmental review is a survey of the important environmental issues associated with a proposed action that is to be considered in the decision-making process. It does not include all possible environmental issues, and it does not include the detailed evaluation required in a conventional EIS. Because there is no foreign government or international organization participation in its preparation, the content may be circumscribed due to limitations in available information and foreign relations sensitivities. To the extent practicable, an environmental review should include the following:

3.5.1.2.1. A statement of the action to be taken including its timetable, physical features, general operating plan, and other similar broad descriptive factors.

3.5.1.2.2. Identification of the important environmental issues involved.

3.5.1.2.3. The aspects of the actions taken or to be taken by the DoD component that mitigate the impact on the environment.

3.5.1.2.4. The actions known to have been taken or to be planned by the government of any participating and affected foreign nations that will affect environmental considerations.

4 Forms

4.1 Prescribed forms - none

4.2 Referenced forms

a. DLA Form 1664, Record of Determination,
<http://www.dla.mil/DSS/forms/fillable/DL1664.pdf>.