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# United States Senate

WASHINGTON, DC 20510

June 17, 2005

Honorable Anthony J. Principi  
Chairman, Base Closure and Realignment Commission  
2521 South Clark Street, Suite 600  
Arlington, Virginia 22202-3920



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Dear Mr. Chairman:

The Defense Base Closure and Realignment Act of 1990, as amended, provides for establishment of the 2005 Base Closure and Realignment (BRAC) Commission and its carrying out of certain statutory duties with respect to the closure and realignment of military installations. The Act is generally silent on the internal procedures to be followed by the Commission, leaving it up to the Commission to adopt its own internal rules of procedure.

We are writing to express our concern with a possible interpretation of the Commission's procedural rules that may restrict the ability of the Commission to carry out its duties under applicable law. The procedural rule in question provides generally that actions taken by the Commission (other than certain actions which require seven affirmative votes by statute) must be approved by a majority of the Commissioners "serving at the time." We understand that this rule could be interpreted to require a minimum of five affirmative votes, regardless of the number of recusals by individual Commissioners, for any action of the Commission on a particular closure or realignment recommendation proposed by the Secretary of Defense.

We recognize the necessity for a recusal procedure for individual Commissioners in order to protect the Commission and individual Commissioners from conflicts of interest or the appearance of such conflicts. However, such an interpretation of the rule cited above may result in a situation in which a particular Commission action that is supported by a majority of the Commissioners who are actually voting on the matter would fail for want of five affirmative votes. This interpretation would undercut the ability of the Commission to act in accordance with the views of a majority of Commissioners voting on a particular matter.

We request that the Commission, which has the ability to modify its rules, do so in a way that clearly states that individual Commissioners who have recused themselves from a particular matter would be deemed to be not serving *with respect to that matter*. This will preserve the principle of majority decisionmaking by the Commission, while also enabling the Commission to carry out its statutory responsibilities in light of multiple recusals.

Sincerely,

Ted Stevens  
Chairman, Subcommittee on Defense  
Committee on Appropriations

John Warner  
Chairman  
Committee on Armed Services