

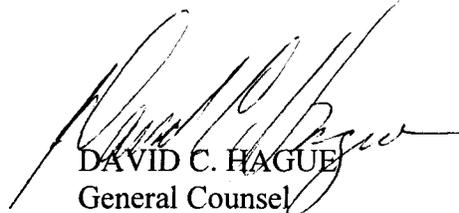
BRAC/GC/DCH
2 May 2005

MEMORANDUM FOR DIRECTOR OF STAFF

Subj: DOD ADMINISTRATIVE SUPPORT OF BRAC

Encl: (1) Proposed item for inclusion in the Congressional Record

1. Congress provided funding for supplies, salaries, travel, and other expenses, which, as with past Base Realignment and Closure Commissions, is managed by DoD. The management of the funds is administrative only and in no way limits the independence of the Commission. Use of the funds is wholly within the discretion of the Commission Chairman, limited only by federal statutes and regulations that apply to all similar commissions.
2. Enclosure (1) is provided as a proposed means of dealing with the sensitive issue of BRAC independence of Department of Defense (DoD) influence and control, specifically the possible misimpression created by DoD's management of BRAC funds provided by the Congress.
3. A Senator or Representative could present the statement in declarative form at one of the scheduled hearings. Alternatively, the statement could, with the assistance of the appropriate Congressional staff member, be published in the Congressional Record without recitation at a hearing or other venue.



DAVID C. HAGUE
General Counsel

PROPOSED STATEMENT FOR PRESENTATION AT SCHEDULED BRAC 2005 HEARING
OR FOR DIRECT SUBMISSION FOR PUBLICATION IN THE CONGRESSIONAL
RECORD

The Defense Base Realignment and Closure Commission is a presidentially appointed, Senate confirmed, nonpartisan entity independent of the executive and legislative branches in the performance of its statutory functions. The Commission operates according to specific regulatory rules set forth in the Defense Base Realignment and Closure Act of 1990, as amended through the FY 2005 Authorization Act.

The rules controlling the Commission include elements designed to ensure the fairness and integrity of the base realignment and closure process. Those rules include the requirement for certified data, detailed selection criteria, independence of the Commission, and specific timeframes for Commission actions.

Congress provided funding for supplies, salaries, travel, and other expenses, which, as with past Base Realignment and Closure Commissions, is managed by the Department of Defense. The management of the funds is administrative only and in no way limits the independence of the Commission. Use of the funds is wholly within the discretion of the Commission Chairman, limited only by federal statutes and regulations that apply to all similar commissions.

Hague, David, CIV, WSO-BRAC

From: Cowhig, Dan, CIV, WSO-BRAC
Sent: Friday, May 27, 2005 3:21 PM
To: 'Lucian_Neimeyer@armed-services.senate.gov'
Cc: Hague, David, CIV, WSO-BRAC; Sarkar, Rumu, CIV, WSO-BRAC; Cirillo, Frank, CIV, WSO-BRAC
Subject: Suggested text

Lucian -

Here's a proposed text for the suggested statement:

The 2005 Defense Base Closure and Realignment Commission is a statutorily created, presidentially appointed, nonpartisan entity independent of the Department of Defense. The Commission operates according to specific standards set out in The Defense Base Closure and Realignment Act of 1990, as amended.

The structure and procedures of the Commission are designed to ensure the fairness and integrity of the base realignment and closure process. The statute requires an open, transparent process, lays out specific selection criteria, demands equal consideration of potentially impacted bases, and establishes concrete timeframes for the necessary actions. The Commissioners, appointed by the President as Special Government Employees for the life of the 2005 commission, represent a broad spectrum of professional experience and geography.

Congress appropriated fenced funding for salaries, supplies, travel, and other expenses. Although those funds are handled by the Department of Defense as a matter of administrative convenience, as they have been with past BRAC commissions, DoD has no discretion in the handling of those funds. The use of those funds by the Commission is within the discretion of the Chairman of the Commission, Mr. Principi, consistent with our statutory guidance and decisional law. The fact that DoD is providing support to the BRAC Commission in no way allows for any DoD supervision of the Commission, or interference with its operation. The Defense Base Closure and Realignment Commission is an independent decision-making body.

This could help smooth a number of issues. Because I'm a slow and poor typist, I'll try to call you with the answer to your other questions re the GC's view on the statute.

V/R

Dan Cowhig
Deputy General Counsel and Designated Federal Officer
2005 Defense Base Closure and Realignment Commission
2521 South Clark Street
Suite 600 Room 600-20
Arlington Virginia 22202-3920
Voice 703 699-2974
Fax 703 699-2735
dan.cowhig@wso.whs.mil