Date: June 22, 2005

To: Commissioners, Defense Base Closure and Realignment Commission

From: Chairman Anthony J. Principi

RE: Commission Procedures and Schedule

As we approach the voting phase of the Base Closure and Realignment process I have found it useful to review our current situation regarding recusals and voting requirements. A discussion of the results of my review follows.

Matters as they now stand are that four commissioners have recused themselves from participation in matters relating to installations in their home states. Commissioners Coyle and Gehman recused themselves, in accordance with ethics agreements they signed during the nomination process, because of BRAC-related activity in California and Virginia respectively. Commissioner Bilbray recused himself because of his long-time representation of Nevada in the Congress and other public offices. Commissioner Hansen recused himself with regard to Utah for the same reason.

Each of the commissioners made his recusal publicly at a Commission hearing held on May 19, 2005. As a result of these recusals, the commissioners cannot deliberate or vote on matters relating to installations in their home states or to installations in other states that are substantially affected by closures and realignments or installations in their home states. To avoid controversy and possible litigation “substantially affected” will be interpreted very conservatively.

The procedural rules adopted by the Commission at an open hearing on May 19, 2005, are, with one significant exception, the same as the rules that guided the previous three BRAC Commissions. Unlike in the past, however, a super majority of seven of nine commissioners is now required to add, realign, or increase the realignment of a base not included on the Secretary of Defense’s list of bases to be closed or realigned.

With the exception of the seven-of-nine vote requirement, no guidance is provided in the BRAC statute for voting, such as what constitutes a quorum and majority. The Commission rules describe three situations in which a majority of the commissioners serving is required to conduct business. Only issues such as motions to extend meetings and adjourn are resolved by a simple majority of commissioners present. A majority of commissioners serving is therefore always five unless by resignation or other loss without replacement the total number of commissioners serving is reduced below nine.

The majority of the votes anticipated during Commission hearings to consider additions to the Secretary’s list and conduct final deliberations will not be affected by recusals. All commissioners will be qualified to deliberate and vote.
Only one Commissioner will be recused from most of the remaining votes. In only a very limited number of actions will two or three Commissioners be disqualified from deliberating and voting.

In a related matter, I have determined as a matter of policy that we will make the greatest reasonable effort to minimize the number of conflicts but permit recused Commissioners as necessary to participate in regional hearings. Participation will be allowed even though the recused Commissioners will be unable to deliberate and vote on all of the installations discussed at the hearings and site visits. Their direct exposure to as much information and as many concerned citizens as possible is recognized as being vitally important to the completion of the Commission task of open, fair, and comprehensive consideration of the final selection criteria, force-structure plan, and worldwide infrastructure inventory. Other Commissioners and staff at the hearings and site visits will also gather data, so there is no real possibility that the recused Commissioner could be seen as filtering the Commission’s view of an installation.

I know that we are of like mind that the Commission and its individual members must be above reproach and free from any real or perceived bias. The actions of Commissioners Bilbray, Coyle, Gehman, and Hansen in limiting their participation in certain Commission actions reflect the importance they place on their personal integrity and the public trust. Their actions can only serve to enhance the reality and perception of the Commission as independent, open, and honest.

I know that you share my enthusiasm for this undertaking, but I also am confident that we all look forward to the successful completion of our work. We have conducted more than half of our initial site visits and public hearings, but two full months of focused effort remain. Hearings to receive testimony from the Department of Defense, Government Accountability Office, and others are scheduled for July 18 and 19. We will conduct our “adds” hearing on July 19. We will receive Congressional testimony on July 28 and 29, and testimony from the Secretary of Defense and Chairman, Joint Chiefs of Staff during the week of August 15. Final deliberations commence the week of August 22. At this point, we remain on schedule to deliver the Commission report to the President on September 8. Thanks to you all for your remarkable service.