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Military Base Closures: Implementing the 2005 Round

Updated May 9, 2005

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Summary

On November 15, 2002, Secretary of Defense Donald Rumsfeld announced the first steps in implementing the new 2005 base realignment and closure (BRAC) law. These included development of a force structure plan, comprehensive inventory of military installations, and establishment of criteria for selecting bases for closure and realignment.

The Secretary of Defense submitted a report to Congress on March 23, 2004, confirming the need for a further BRAC round and certifying that an additional round of closures and realignments would result in annual net savings, over a period ending no later than FY2011.

On May 20, 2004, the House of Representatives voted 259 to 162 to delay base closings until 2007. In response to this action, the White House immediately released a statement declaring that the Secretary of Defense, and other senior advisers, would urge the President to veto any bill that “weakened, delayed, or repealed” the current base closure authority.

On October 8, 2004, Senate and the House conferees reached agreement on the National Defense Authorization Act for FY2005, which included continued support of DOD’s authority to conduct a round of closures and realignments in 2005. Senator John Warner stated that it was essential to allow DOD to complete its effort to reduce the size of its infrastructure.

Most recently, the President has appointed nine members to serve on the 2005 BRAC Commission. In doing so, he has consulted with leading Members of Congress. He completed selection of the commissioners on March 15, 2005, the last day required by law. In addition, the President has chosen Anthony A. Principi to serve as the chairman of the BRAC Commission.

In order to complete the process, Senate hearings and approval are required. Once formally established, the Commission will then conduct a series of local, D.C. area hearings to collect general information on DOD’s force structure needs and goals. It will also conduct regional hearings at locations throughout the country. At least one commissioner will visit each base on DOD’s designated list.

This report will be updated as needed.

Contents

Introduction	1
Early Requirements and Developments	2
Force Structure Plan	2
Comprehensive Inventory	2
Selection Criteria	2
Military Value	3
Other Considerations	3
BRAC Developments: 2003	3
BRAC Developments: 2004	6
DOD Implements Selection Criteria	6
DOD Sends Report to Congress	7
Congress Considers BRAC Delay	8
Community Concerns about BRAC	10
Local Efforts to Prevent Closures	10
Addressing the Encroachment Issue	11
U.S. Overseas Basing Initiative	12
BRAC Developments: 2005	14
The 2005 BRAC Commission	14
Debate On Status of the National Guard	16
DOD Lowers Estimate of Excess Capacity	16
Effort Made to Block Nominations	17
Base Closure Commission Hearings	17
The 2005 BRAC Timeline	19

List of Tables

Table 1. The 2005 BRAC Timeline	19
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Military Base Closures: Implementing the 2005 Round

Introduction¹

On November 15, 2002, Secretary of Defense Donald Rumsfeld issued a memorandum to senior staff regarding the implementation of the new base realignment and closure (BRAC) round authorized by Congress in 2001.² He emphasized that, as part of the Department of Defense's transformation initiative, "new force structures must be accompanied by a new base structure," and added that "BRAC 2005 should be the means by which we reconfigure our current infrastructure [bases] into one in which operational capacity maximizes both war fighting capability and efficiency."³ He, then, directed that the process begin immediately. It was, in effect, the formal launching of DOD's 2005 base closure implementation process.⁴

The Secretary of Defense also revealed in his memo a particularly important BRAC 2005 objective, namely examining and implementing opportunities for greater joint activity as a means of achieving a more efficient base structure. He explained that prior BRAC rounds had analyzed functions on a unique service-to-service approach and, therefore, did not benefit from joint examination of functions that cross services. It would appear, for example, that DOD's network of research laboratories, medical facilities, maintenance depots, and testing and evaluation facilities will become prime candidates for consolidation in the next round.

In respect to the selection process, Secretary Rumsfeld declared that DOD would not make any binding closure or realignment decisions prior to the submission of its final recommendations to the new BRAC commission in May 2005. It should be noted, however, that his statement left open the possibility (if not likelihood) of DOD conducting internal, non-binding deliberations.

To underscore the importance of the new BRAC round, Secretary Rumsfeld has created two Office of the Secretary of Defense-level groups to oversee and operate the BRAC 2005 process. First of these is the Infrastructure Executive Council (IEC), chaired by the Deputy Secretary. It serves as the policy-making and oversight body

¹ For prior information on BRAC rounds, see CRS Report RL30051, *Military Base Closures: Agreement on a 2005 Round*, by David E. Lockwood, 15 p.

² U.S. Congress. "National Defense Authorization Act for Fiscal Year 2002" (P.L. 107-107), Sections 3001-3007.

³ U.S. Department of Defense. "Transformation Through Base Realignment and Closure," November 15, 2002.

⁴ Hereafter, any reference in this report to "closure" may also include "realignment."

for the entire process. The second, subordinate group is the Infrastructure Steering Group (ISG), chaired by the Under Secretary of Defense (Acquisition, Testing, and Logistics). It will be responsible for the detailed direction necessary to conduct the BRAC 2005 analyses.⁵

Early Requirements and Developments

In implementing the 2005 round, DOD's first three requirements are (1) to develop a force structure plan, (2) to conduct a comprehensive inventory of military installations, and (3) to establish criteria for selecting bases for closure or realignment.

Force Structure Plan

In regard to the first, the Secretary of Defense must develop a force structure plan based on an assessment of the probable threats to the national security over a 20-year period, beginning with FY2005. He is also required to estimate the end-strength levels and the major military force units needed to meet such threats. Finally, the Secretary of Defense must estimate the anticipated level of funding that will be necessary to carry out the plan.

Comprehensive Inventory

Second, the Secretary of Defense is required to conduct a comprehensive inventory of U.S. military installations. He must, under the terms of the new BRAC law, determine the anticipated need and availability of military installations outside the United States. In addition, the Secretary of Defense must give special consideration to any efficiencies that might be gained from the use of joint tenancy by more than one branch of the Armed Forces at a military installation.

Selection Criteria

Third, the Secretary of Defense must develop a set of criteria for selecting bases for closure and realignment. He must address a broad range of military, fiscal, and environmental considerations likely to affect closure and realignment decisions. In prior rounds, DOD assigned highest priority to four criteria related to military value. An additional four included return on investment, economic impact, community infrastructure, and environmental impact. The eight selection criteria as proposed for the 2005 round are, in almost every essential detail, the same as those adopted and implemented in the three past rounds.

The bolded sections of DOD's new draft criteria below reveal the pertinent additions, as published in the *Federal Register* on December 23, 2003 (Vol. 68, No. 246, p. 74221-2).

⁵ See CRS Report RS21822, *Military Base Closures: DOD's 2005 Internal Selection Process*, by Daniel Else and David Lockwood, April 21, 2004, 6 p.

Military Value.

1. Current and future mission requirements and impact on operational readiness of DOD's total force, *including the impact on joint warfighting, training, and readiness.*
2. Availability and condition of land, facilities, and associated airspace (*including training areas suitable for maneuver by ground, naval, and air forces throughout a diversity of climate and terrain areas and staging areas for the use of the Armed Forces in homeland defense missions*) at both the existing and potential receiving locations.
3. Ability to accommodate contingency, mobilization, and future total force requirements at both the existing and potential receiving locations *to support operations and training.*
4. Cost and manpower implications.

Other Considerations.

5. Extent and timing of potential costs and savings, including the number of years, beginning with the date of completion of the closure or realignment, for the savings to exceed the costs.
6. Economic impact on *existing communities in the vicinity of military installations.*
7. Ability of both existing and potential receiving communities' infrastructure to support forces, missions, and personnel.
8. Environmental impact, *including the impact of costs related to potential environmental restorations, waste management and environmental compliance activities.*

Significant features of the new list include (1) reassertion of the overall importance of "military value," (2) increased emphasis on joint war-fighting, training, and readiness, and (3) dependence on local communities to support military missions.

BRAC Developments: 2003

In mid-January 2003, two senior members of the House Armed Services Committee (Representative Gene Taylor and Representative Joel Hefley) expressed the desire to either change or repeal the new base closure law (P.L. 107-107).⁶ Several months later, on May 6, Representative Hefley, chairman of the House

⁶ Richard H.P. Sia, "Lawmakers Seek to Stop Next Base-Closing Round," *Congress Daily*, January 16, 2003.

Armed Services Readiness Subcommittee, announced he would be receptive to a postponement, but would not offer an amendment.⁷

On May 9, 2003, the Readiness Subcommittee approved its part of the defense authorization bill (H.R. 1588), in which it adopted an amendment by Representative Taylor to repeal the 2005 round. A few days later, however, the full House Armed Services Committee voted to restore the 2005 closings. The chairman, Representative Duncan Hunter, argued that killing the base-closing round would only lead to a veto by the President and make the committee irrelevant.⁸

On May 21, 2003, the White House threatened to veto any bill if it included language delaying or cancelling DOD's ability to conduct another round of closures.⁹

On May 22, 2003, the House passed its defense authorization bill, including a provision that would exempt half of domestic bases from being closed. The bill, also, would require the Department of Defense to maintain a sufficient number of bases to handle a surge in military forces in the event of a future crisis. In final conference action in early November 2003, the "exemption" initiative failed, while the "surge" initiative succeeded (H.Rept. 108-354).¹⁰

Also, on May 22, 2003, the Senate passed its defense bill (S. 1050). It did not contain any significant domestic base closure language, but did provide authority to create a commission to review overseas bases. In later conference action, however, the overseas bases initiative was dropped.¹¹ The issue, nevertheless, remained alive. On November 4, 2003, the Military Construction Appropriations Act for FY2004 (Section 128) provided for a commission of eight members to review overseas bases. It further stipulated that appointment of the members must be made no later than 45 days after enactment of the act.¹²

On June 4, 2003, Senator Byron Dorgan offered an amendment to repeal the authority for a new base closure round in 2005. He said he could not think of a worse time to consider such a step. Senator Trent Lott, a co-sponsor of the amendment, concurred. He explained that "At this time, we have not properly assessed our needs. We are at war. It sends a terrible signal, and it is bad for the economy." He later suggested that, perhaps, delaying the next round to 2006 might be worth

⁷ "Panel May Seek Base Closing Delay," *Congress Daily*, May 7, 2003.

⁸ David Morris, "House Committee Votes for Base Closings in 2005," *Congress Daily*, May 14, 2003.

⁹ Carolyn Skorneck and Pat Towell, "House, Senate Pass Different Versions of Defense Authorization Measure," *CQ Today*, May 23, 2003.

¹⁰ U.S. Government Printing Office, *Congressional Record*, November 6, 2003, p. H10659.

¹¹ P.L. 108-136, signed November 24, 2003.

¹² U.S. Congress. House. "Making Appropriations for Military Construction, etc.," (H.Rept. 108-342), November 4, 2003, p. 10-12.

considering.”¹³ In opposition, Senator Saxby Chambliss said that “putting off the BRAC 2005 round now will only prolong the anxiety in our communities surrounding our military installations.”¹⁴ In the final vote, the amendment was defeated 42 to 53 — a margin that many might regard as surprisingly close.

In contrast, letters sent to the committees by Pentagon officials strenuously argued that DOD was overburdened with an infrastructure that was simply no longer needed to support the size of the U.S. forces. The Secretary of Defense stressed that “BRAC provides the opportunity to configure our infrastructure to maximize capability and efficiency.”¹⁵

On July 1, 2003, DOD officials issued a memo reorganizing its installations and environment office in anticipation of the impending 2005 base realignment and closure round. It created a new BRAC directorate that would identify which bases to eliminate. In the past, DOD has acceded to the individual services’ recommendations on closures. In the new round, it appears the Office of the Secretary of Defense is poised to exercise a much greater degree of control.¹⁶

The House defense appropriations bill for 2004 included a provision that would close Roosevelt Roads Naval Station, Puerto Rico’s largest employer. Several Members of Congress insisted that without the live-fire bombing range on Vieques island, there was little military value in retaining the military base.¹⁷ The Senate’s appropriations bill did not contain language for closing the base.

Under Section 8132 of the Department of Defense Appropriations Act for FY2004 (P.L. 108-87), the Secretary of the Navy was directed to close the Naval Station Roosevelt Roads not later than six months after its enactment, which occurred on September 30, 2003. Virtually all the military activity at the Naval Station has ceased, and military units and functions have been transferred to other installations located in the southeastern continental United States.

The act also required that the closure be carried out in accordance with the procedures and authorities contained in the relevant Defense Base Closure and Realignment Act of 1990, as currently amended.

On December 23, 2003, the Pentagon issued its *initial criteria* for selecting bases for closure and realignment, sending it to the *Federal Register* for public

¹³ U.S. Government Printing Office. *Congressional Record*, June 4, 2003, p. S7288.

¹⁴ *Ibid.*, p. S7292.

¹⁵ *Ibid.*, p. S7289.

¹⁶ “Dubois Reforms I&E Office in Bid to Elevate DOD BRAC Influence,” *Inside Defense*, July 1, 2003.

¹⁷ U.S. Congress. House. “Department of Defense Appropriations Bill, 2004,” (H.Rept. 108-187), July 2, 2003, p. 317.

comment as required by law.¹⁸ DOD stated that it would take into consideration military installations' current and future capabilities, cost and manpower, location availability, economic impact on communities, ability to support personnel, and environmental impact. In addition, the President was required to certify that there was need for a new BRAC round and that there would be an annual net savings by the end of FY2011.

BRAC Developments: 2004

DOD Implements Selection Criteria

On January 6, 2004, the Department of Defense requested commanders of installations in the United States, its territories and possessions, to gather information as part of the 2005 base closure round. It stated, however, that no information would be released to the public until after DOD had delivered its list to the independent base closure Commission in the spring of 2005. It also noted that in the past four completed rounds, 85% of DOD's closures and realignments were approved by the Commission.¹⁹

On January 22, 2004, Senator Kay Bailey Hutchison, chairman of the Military Construction Appropriations Subcommittee, sent a letter to the Pentagon stating that "While military value is important to assessing the necessity of installations, the DOD should also conduct a comprehensive study of U.S. facilities abroad and determine whether existing base structures and locations meet the needs of current and future missions. It would be unwise to close or realign domestic bases that may be needed for troops returning from outdated facilities abroad."

Senator Hutchison, further, stated that "The DOD should also consider how closing or realignment of installations affects our homeland security. The current draft criteria, very similar to that proposed in the previous BRAC rounds, do not fully reflect the security of issues our country faces in the wake of September 11, 2001. Our nation is not dealing with the same threats as we were in 1995 and, therefore, we must develop new strategies to insure the military does not close a base only to later realize its costly mistake."²⁰

On February 12, 2004, the Pentagon published its *final criteria* for the 2005 round. The criteria were identical to the initial draft version, leading some who took advantage of the opportunity to comment on the process to criticize the Department's selection. The principal concern among commentators regarding the final criteria seemed to be its overall vagueness. Representative Sam Farr raised the issue on the same day in the House Appropriations Subcommittee hearings on military

¹⁸ Federal Register/Volume 68, No. 246/Tuesday, December 23, 2003, p. 74221-2.

¹⁹ U.S. Department of Defense. "Department of Defense Begins Gathering Data for BRAC 2005," (News Release), January 6, 2004.

²⁰ Press Release by Sen. Hutchison, "Homeland Security, Overseas Basing Should Be in BRAC Criteria," January 22, 2004.

construction. He stated that the criteria were so broadly constructed that they could suit almost any desired outcome.²¹

In reply to this charge, the Pentagon explained that, “The inherent mission diversity of the military departments and defense agencies makes it impossible for DOD to specify detailed criteria. Broad criteria allow flexibility of application across a wide range of functions within the Department.”²²

The 2005 base closure law provided Congress with the option of passing an act of disapproval regarding the final selection criteria. It set a deadline of March 1, 2004, for undertaking such an action. The deadline having passed without congressional action, DOD’s finalization of the selection criteria for closing bases automatically took place.

DOD Sends Report to Congress

On March 23, 2004, as part of the budget justification required by Congress each year, the Secretary of Defense submitted a detailed report on the need for a further BRAC round. He also certified that an additional round of closures and realignments would result in annual net savings for each of the military departments, beginning not later than FY2011.²³ Absent the certification, the 2005 base closure round would have been cancelled.

In the report, DOD developed a long-range force structure plan based on the probable threats to national security from 2005 to 2025. It also constructed a comprehensive installation inventory, arrayed by military department and by active and reserve component installations. To assess the amount of excess infrastructure anticipated in FY2009, DOD used the parametric analytical approach that it used in a similar earlier 1998 assessment.²⁴

The DOD report focused on major U.S. installations across broad categories, rather than the entire inventory, which includes myriad smaller sites. In addition, DOD weighed the anticipated continuing need for installations outside the United States, as well as any efficiencies that might be gained from joint tenancy. Also, DOD used its experiences with prior rounds to assess the economic effects of base closures and realignments on communities in the vicinity of affected installations.

²¹ U.S. Congress. House. Committee on Appropriations, Subcommittee on Military Construction. Hearing on FY2005 Military Construction Appropriations (BRAC), February 12, 2004, p. 17.

²² Elizabeth Kenny, “Base Closure Criteria Lists Finalized,” *Portsmouth Herald*, February 13, 2004.

²³ U. S. Department of Defense. “Report Required by Section 2912 of the Defense Base Closure and Realignment Act of 1990, as amended through the National Defense Authorization Act for FY2003,” March 2004, p. 1.

²⁴ *Ibid.*, p. 2.

The report estimated that DOD possessed, in aggregate, 24% excess installation capacity. It pointed out, however, that “only a comprehensive BRAC analysis can determine the exact nature and location of potential excess.”²⁵ It then went on to explain that DOD would conduct a thorough review of its existing infrastructure in the coming year, ensuring that all installations will be treated equally and evaluated on their continuing military value to the nation.²⁶

The release of DOD’s report was followed, on March 25, 2004, by a House Armed Services Military Readiness subcommittee hearing on base closures, at which some Members voiced strong opposition to the timing of the new round. Others were more conflicted — wanting to support the war on terror, on the one hand, but also concerned about the many open-ended challenges facing DOD and the country, on the other.²⁷

On the same day, the General Accounting Office issued a report on the new BRAC round. It stated that DOD’s 2005 selection criteria followed a framework similar to that employed in the four prior rounds. It also said that the criteria were generally sound but pointed out that DOD needed to consider, in its analyses, the absence of total agency-related and environmental costs.²⁸

Congress Considers BRAC Delay

On March 24, 2004, Representative Solomon Ortiz introduced legislation (H.R. 4023), calling for a two-year delay in implementing a new BRAC round. His bill was supported by 30 co-sponsors. He said: “This is not the time to be shutting down bases.” He noted that the military had on-going operations in Iraq and Afghanistan and might move troops home as it closes down bases overseas.²⁹

On March 25, 2004, Representative Joel Hefley, chairman of the House Armed Services Military Readiness Subcommittee, conducted a lengthy oversight hearing on BRAC. The discussions revealed significant emerging bipartisan support for delaying the BRAC process.

On April 1, 2004, the Senate Armed Services Subcommittee on Readiness and Management Support held hearings that included discussion of the 2005 base closure round. Deputy Under Secretary of Defense Raymond DuBois argued that any delay in the BRAC process would upset the ongoing global posture review aimed at determining which bases in the United States would receive the overseas force

²⁵ Ibid., p. 3.

²⁶ Ibid.

²⁷ U.S. Congress. House Armed Services Military Readiness Subcommittee. “2005 Base Realignment and Closure (BRAC) Process,” March 25, 2004.

²⁸ U.S. General Accounting Office. “Military Base Closures: Observations on Preparations for the Upcoming Base Realignment and Closure Round,” (GAO-04-558T), March 25, 2004, p. 3.

²⁹ Amy Klamper, “House Committee Ponders Approach to Base Closings,” *Government Executive*, March 22, 2004.

structure. He emphasized that “We must do the overseas piece first ... and by the end of May.”³⁰

Several weeks later, on May 6, 2004, the HASC subcommittee approved a two-year delay that would postpone the next base closure round until 2007. Its chairman, Representative Joel Hefley, expressed concern over the timing. “It would be a bad mistake to do it in the middle of a war,” he said.

On May 12, 2004, the full House Armed Services Committee addressed the base closure issue. Representative Gene Taylor offered an amendment to terminate the 2005 round. The committee, however, adopted a more moderate stand offered by Representative Joel Hefley. His substitute amendment called for delaying the round from 2005 to 2007.

On May 18, 2004, Senator Trent Lott introduced an amendment to delay the 2005 BRAC round. He explained that DOD should first close its bases overseas before closing those at home. The Senator was supported by a large number of bipartisan colleagues, but he also confronted strong opposition from Senator John Warner and other key leaders. The amendment was narrowly defeated by a vote of 49 to 47.³¹

Two days later, on May 20, 2004, the full House voted 259 to 162 to delay base closings until 2007. In response to this action, the White House immediately released a statement declaring that the Secretary of Defense, and other senior advisers, would urge the President to veto any bill that weakened, delayed, or repealed the current base closure authority.

On September 23, 2004, at a Senate Armed Services Committee hearing on global force posture, Secretary of Defense Rumsfeld reiterated the threat of a veto. He further stated that the timing of the planned return of about 70,000 U.S. forces from overseas, along with the scheduled BRAC round, were inextricably linked.³²

In the same hearing, Senator John Warner, chairman of the defense committee, warned that communities were already spending millions of dollars hiring experts to BRAC-proof their installations. To perpetuate the situation for two more years, he stressed, would be an enormous burden to communities on top of the high cost of keeping open bases no longer needed.³³

³⁰ U.S. Congress. Senate Armed Services Readiness and Management Support Subcommittee, “Military Installation Programs in Review of the Defense Authorization Request for FY2005,” [Hearings] April 1, 2004.

³¹ No. 3158.

³² “Rumsfeld Would Advise Veto Over Base-Closing Delay,” *CongressDaily*, September 24, 2004.

³³ William Matthews, “No Hurry on U.S. 2005 Spending Bill,” *DefenseNews*, September 20, 2004.

On October 8, 2004, Senate and House conferees reached agreement on the National Defense Authorization Act for FY2005, which included continued support of DOD's authority to conduct the 2005 base closure and realignment round. Senator John Warner stated, "This Administration priority is absolutely essential and necessary ... to allow the Department to evaluate its infrastructure and to make smart decisions to support a well-postured 21st Century military. We must complete this crucial process over the next year in order to reduce aging, excess infrastructure, provide resources for the military where they need it the most, and provide investment and development opportunities for the local communities that so strongly support our forces."³⁴

On the same day, Representative Duncan Hunter underscored four provisions of the law intended to improve the BRAC implementation process. These included (1) prohibiting any revision of DOD's force-structure plan or infrastructure inventory after March 15, 2005; (2) codifying the Secretary of Defense's criteria for selecting bases to be closed and realigned; (3) repealing the authority of the Secretary of Defense to place installations in inactive status; and (4) prohibiting the Commission from changing the Secretary of Defense's selections — unless at least two members of the Commission visit the installation involved, and at least seven members of the Commission support the decision.³⁵ This last provision was intended to ensure that a super-majority of BRAC commissioners prevailed.³⁶

Community Concerns about BRAC

Local Efforts to Prevent Closures³⁷

As a result of the impending new round of base closures, many community leaders have been searching for ways to protect nearby military installations. In these efforts, they have received much encouragement and financial support from their respective state and local governments. Millions of dollars are currently being spent to improve the infrastructure near bases, with the intent of ensuring their survival.

The Pentagon, with an interest in paring down the military, is looking at bases with only one or two missions, or some other critical vulnerability. At the other end of the continuum is Fort Jackson, SC which, besides including a basic combat and advanced individual Army training program, also is the home of a chaplain school,

³⁴ U.S. Senate, Committee on Armed Services. Press Release, October 8, 2004.

³⁵ U.S. Government Printing Office. Congressional Record, October 8, 2004, p. H9279.

³⁶ U.S. House of Representatives, Committee on Armed Services. Press Release, October 8, 2004

³⁷ Information in this section, as well as in the next, is derived in large part from two articles by George Cahlink, "Bracing for Closure," *Government Executive*, August 1, 2001; and "White House Threatens Veto of Defense Bill over Limits on Base Closure," *Government Executive*, May 23, 2003.

a drill sergeants' school, the Soldier Support Institute, and the Department of Defense Polygraph Institute.³⁸

In August 2003, leaders in San Antonio, Texas proposed a constitutional amendment authorizing the state to issue \$250 million in bonds to help protect Texas military installations. Local communities, under this arrangement are able to borrow the bond proceeds at low rates for projects that “enhance the military value” of facilities.³⁹

In another example, a non-profit community organization in Shreveport, LA offered to build and refurbish more than 300 housing units at Barksdale Air Force Base — at no additional cost to DOD. The offer was made after many complaints about the inadequacy of its military housing.

In other cases, state “retention” grants have been awarded to help local communities (1) establish links between military bases and state universities; (2) utilize the potential for public-private partnerships; and (3) consider exchanging military land with private developers in return for building new base facilities.

When asked for advice on how to prevent base closures, one leading former defense official answered that the communities should emphasize existing strengths and new partnerships with the military. “Our advice to the communities,” he said, “was always the same — make sure the strengths of your facility are known.”⁴⁰

Addressing the Encroachment Issue

Of special concern to many communities, as well as the Department of Defense, is “range encroachment.” It is the process whereby a military base is progressively hemmed in by urban growth, competition for air space, protection of an endangered species, and other factors. Such a development can detract from a base’s desirability, and thus make it a target for future closure and realignment in the next round.

In the past, the Department of Defense has regarded encroachment as a local government issue over which it had little or no control. According to one Pentagon official, John Leigh, the federal government remained virtually powerless to intervene in local community growth issues. However, laws have been passed in the last few years that now require local jurisdictions to consider the impact of new growth on military readiness when making land-use decisions.⁴¹

³⁸ Susanne M. Schafer, “Fort Should Be Safe, Sanford Says,” *The Associated Press*, August 26, 2003.

³⁹ “Help State Defend Its Military Facilities,” *San Antonio Express-News*, August 25, 2003.

⁴⁰ Cahlink, op. cit.

⁴¹ Lara Beaven, “Encroachment Likely to ‘Loom Large’ in 2005 Base Closure Round,” *Inside Defense*, August 13, 2002.

An October 2002 study by the National Governors Association drew attention to the rising problem of encroachment in many states. A condensed section of the study follows:

Civilian encroachment is beginning to restrict or eliminate testing and training activities in many locations. Eighty percent of our nation's installations are experiencing urban growth at a rate higher than the national average. Residential and commercial communities are potentially exposed to artillery fire, aircraft noise, dust, and worse yet accidents.

As urban growth and development increase near and around bases, so do land-use conflicts between mission activities and local communities. For instance, many military airports conduct night training exercises. The city lights of encroaching development often compromise the effectiveness of night vision equipment, making night training exercises impractical.

The extent of urban encroachment and its effect on operational activity of an installation is a consideration in determining its future viability, and such mission constraint can lead to activity reductions or even closures. The resulting reduction in installation personnel and mission activities can jeopardize economic activity, jobs, and tax revenues. Encroachment puts local and state economies at risk.⁴²

The FY2003 defense authorization act (P.L. 107-314) included a natural resource conversion provision that addressed the impact of land development on military installations. The Pentagon argued that environmental requirements placed serious limitations on the use of certain lands. As a result, Section 2881 authorized the Secretary of Defense to create conservation buffer zones outside its installations to help prevent urban sprawl, while also providing habitat for endangered species. Environmental advocates have argued that DOD needs to work more closely with developers and local officials, who are likely to be focused on increasing the area's tax base.

The FY2004 defense authorization conference report requires the Secretary of Defense to conduct a comprehensive study on the impact of various types of encroachment issues affecting military installations and operational ranges. The report must be completed not later than January 31, 2006.⁴³

U.S. Overseas Basing Initiative

On August 16, 2004, the President announced that the Pentagon would redistribute its overseas bases as a means of achieving a more agile and flexible force. The initiative, as part of a Global Posture Review, came after three years of study and consultation. In his statement, the President made it clear he would retain

⁴² National Governors Association, "Military Installations Pressured by Sprawl," October 11, 2002, p.1.

⁴³ H.Rept. 108-354. U. S. Government Printing Office, *Congressional Record*, November 6, 2003, p. H10577-8.

a significant military presence overseas, but that he also intended to bring home about 60,000 to 70,000 uniformed personnel and about 100,000 family members and civilian employees over the next ten years.⁴⁴

Opponents of the 2005 base realignment and closure plan have seized on the President's announcement, arguing that roughly one-third of the soldiers overseas will be returning home and that, given the circumstances, it would be premature to close domestic facilities. Key Members of Congress, most notably Senators Kay Bailey Hutchison and Dianne Feinstein (Chair and Ranking Member of the Senate Appropriations' Subcommittee on Military Construction), expressed their concerns in this regard.

On April 8, 2003, these two Senators sponsored a bill (S. 949) to create a bipartisan Overseas Basing Commission (OBC).⁴⁵ Its purpose was "to assess the adequacy of the U.S. military footprint overseas, consider the feasibility and advisability of closing any current U.S. installations, and provide to Congress recommendations for a comprehensive overseas basing strategy that meets the current and projected needs of the United States."⁴⁶

On April 29, 2003, the sponsors explained: "If we reduce our overseas presence, we need statewide bases to station returning troops. It is senseless to close bases on U.S. soil in 2005 only to determine a few years later that we made a costly, irrevocable mistake."⁴⁷ The two Members of Congress also said that the new commission would last for one year, include eight congressionally appointed members, and be completed for the opening of the 2005 BRAC process.⁴⁸

In a July 10, 2003 statement, the White House threatened not to cooperate with an Overseas Basing Commission, saying that it was already looking at current and future force structure and basing needs. A congressional commission looking over DOD's shoulders, it argued, was unnecessary. In spite of White House opposition, however, the OBC became law when President George Bush signed the Fiscal Year 2004 Military Construction Appropriations Act on November 22, 2003 (P.L. 108-132).

The Overseas Basing Commission was originally scheduled to report its findings by December 31, 2004. As a result of delays in forming the OBC, its deadline was extended to August 31, 2005 — with a preliminary draft issued by the end of March.

⁴⁴ John D. Banusiewicz, "Bush Announces Global Posture Changes Over Next Decade," *American Forces Press Service*, August 16, 2004.

⁴⁵ The full title is the "Commission on Review of Overseas Military Facility Structure of the United States."

⁴⁶ "Feinstein, Hutchison Introduce Military Base Commission Legislation," April 8, 2003.

⁴⁷ U.S. Government Printing Office. *Congressional Record*, April 29, 2003, p. S5495.

⁴⁸ Lisa Burgess, "Call for Commission on Overseas Military Facilities," *Stars and Stripes*, May 1, 2003.

On November 9, 2004, the OBC held a hearing in which John Hamre, former deputy Secretary of Defense, said that DOD had not thought enough about how realigning forces abroad could be used strategically to shape the international environment in the coming decades. He noted that the kinds of changes to the U.S. military posture DOD was contemplating at this time were driven primarily by operational expediency, rather than strategy. “The problem,” he emphasized, “is that in order to be sustainable over the long-term, U.S. bases overseas must be part of an overall political, diplomatic, and strategic framework.” He did not feel that the Administration had established “an enduring framework for the new bases DOD was contemplating.”⁴⁹

Six months later, on May 5, 2005, the OBC unveiled its preliminary report regarding the Pentagon’s global basing plans. According to early press accounts, the commission is concerned that the Pentagon is pursuing global change too rapidly, and that it is providing insufficient support in several other important aspects: such as adequate airlift and sealift, the need for heavy forces in Europe, and “quality of life” issues.⁵⁰

BRAC Developments: 2005

The 2005 BRAC Commission

The 2005 base realignment and closure statute entitled the President to nominate nine members to an independent base closure Commission, by a date no later than March 15, 2005. He was also given the opportunity to ignore the directive — with the result that the new BRAC round would have been cancelled.⁵¹ The President, however, declined to exercise that authority.⁵²

In appointing members to the new BRAC Commission, the statute states that the President *should* consult with the top congressional leadership, as outlined below:

House of Representatives	Senate
Speaker of the House — 2	Majority Leader of the Senate — 2
Minority Leader — 1	Minority Leader — 1

⁴⁹ Chris Strohm, “Effort to Realign Military Bases Abroad Seen as Short-Sighted,” *GovExec*, November 9, 2004.

⁵⁰ John M. Donnelly, “Report Says Defense Department Has Failed to Adequately Study Military Base Plans,” *CQToday*, May 5, 2005.

⁵¹ U. S. Congress. House. “National Defense Authorization Act for Fiscal Year 2002,” (P.L. 107-107, December 12, 2001).

⁵² The President has another opportunity to terminate the BRAC process by failing to forward the final list of BRAC actions to Congress before November 7, 2005.

The three remaining appointments do not require consultation with Congress. A related matter of likely interest will be the composition of the Commission members. In the past four BRAC rounds, they have included

- Former Members of Congress
- Retired military leaders
- Former U.S. ambassadors
- Business leaders — industry, banking, etc.
- Former House and Senate staff members
- Former White House staff members

Over a period of two months, from February 1, 2005 to April 1, 2005, the President and senior congressional leaders conducted a review and, ultimately, approved the selection of nine commissioners to the 2005 base closure and realignment round.

Speaker of the House J. Dennis Hastert recommended former *Representative James V. Hansen* of Utah, and *Samuel K. Skinner* of Illinois. The latter formerly served on President George Bush's chief of staff.

House Minority Leader Nancy Pelosi recommended *Philip E. Coyle III* of California, a former Assistant Secretary of Defense and Director of Operational Test and Evaluation.

Senate Majority Leader William H. Frist recommended retired *General Lloyd W. Newton*, USAF (Ret.) of Connecticut, and retired *Admiral Harold W. Gehman, Jr.* USN (Ret.) of Virginia.

Senate Minority Leader Harry Reid recommended former *Representative James Bilbray* of Nevada.

The President selected *Anthony A. Principi* of California to be the chairman of the 2005BRAC Commission. He was, most recently, vice-president of the Pfizer Corporation. In earlier years, he served as the Secretary of Veterans Affairs, the chief counsel for the Senate Armed Services Committee and the Senate Veterans Affairs Committee, and as a top official with defense contractor Lockheed Martin. In addition, he is a decorated Vietnam war veteran.

The two other nominees selected by the President were *Brigadier General Sue Ellen Turner*, USAF (Ret.) of Texas, and *General James T. Hill*, USA (Ret.) of Florida.

With its formal establishment, the BRAC Commission will proceed to conduct a series of local, D.C. — area hearings to collect general information on DOD's force structure needs and goals for the BRAC process. It will also conduct regional hearings at locations throughout the country to provide affected communities with the chance to express their views and concerns. At least one commissioner, it has been said, will visit each base on DOD's designated list. An additional round or two of hearings (local and regional) are possible before completion of the BRAC

deliberative process — after which the Commission will send its final list to the President.

It should be noted that, due to current BRAC law, the Commission can only **add** a base to DOD's list under the following circumstances. Two commissioners must visit the installation — and seven of the nine commissioners must reach agreement on the final decision.⁵³ In past rounds, there appears to be no evidence of such restrictions. A vote by a simple majority of commissioners was sufficient to justify adding a base to DOD's list.

Debate On Status of the National Guard

On March 24, 2005, Secretary of Defense Donald Rumsfeld received a letter from Illinois congressional leaders stating that, according to a provision of federal law, the Pentagon could not close National Guard bases without a governor's consent. They called on the Secretary to immediately stop any actions that might violate the law. Other sources, however, have stated that the BRAC law and the law prohibiting the closing of National Guard facilities appear to be unrelated. On April 12, 2005, the Department of Defense sent a letter to the Illinois lawmakers rejecting their claim. The letter stated that, for BRAC to be a truly comprehensive process and to achieve success, "the process must involve all installations, including those used by the reserve components."⁵⁴ The issue resurfaced with the swearing-in of the new base closure Commission on May 3, 2005. In its first set of hearings, the BRAC chairman, Anthony J. Principi, stressed that the debate over the governor's legal authority would not slow his panel's consideration of DOD's proposed list.

DOD Lowers Estimate of Excess Capacity

On March 29, 2005, Secretary of Defense Donald Rumsfeld acknowledged that the 2005 base closure and realignment round might be less extensive than initially expected. At a news conference, he explained that DOD's previous estimate of excess capacity had been 20 to 25 percent, but that "it looks now like the actual number will be less than the lower figure of that range." He said the change was due to the ongoing effort by DOD to close military facilities overseas, which in turn necessitates moving tens of thousands of troops back to U.S. bases — perhaps, as many as 70,000. Even so, Secretary Rumsfeld expects that the 2005 round of closures and realignments will affect more installations than all of the four previous rounds.⁵⁵

⁵³ Sec. 2914(d) (3) and (5): "Limitations on Authority to Add to Closure or Realignment Lists," (P.L.101-510, as amended).

⁵⁴ John M. Donnelly, "Base Closing Commission Brushes Aside Arguments About Guard Facilities," *CQToday*, May 4, 2005.

⁵⁵ Tom Shoop, "Pentagon Lowers Estimate of Excess Base Capacity," *Government Executive*, March 29, 2005.

Effort Made to Block Nominations

On March 31, 2005, Senator Trent Lott placed a hold on the President's nomination of former Secretary of Veterans Affairs, Anthony Principi, as head of the 2005 base closure Commission. It was also reported in the press that Senator Lott intended to place holds on each of the remaining BRAC Commission nominees who had yet to appear before the Armed Services Committee for their confirmation hearings.⁵⁶ A staunch opponent of BRAC, Senator Lott joined other lawmakers last year in a bid to delay the 2005 round by two years. His amendment to the Senate's FY2005 defense authorization bill was narrowly defeated by a vote of 49 to 47.⁵⁷

On April 1, 2005, President Bush took the unusual step of announcing the recess appointment of all nine BRAC Commission members, thereby eliminating the requirement for Senate confirmation.⁵⁸ Senator John Warner, who heads the Armed Services Committee supported the White House decision, saying that such delays might otherwise complicate completion of the 2005 BRAC round.

Base Closure Commission Hearings

On March 15, 2005, the U.S. Senate Armed Services Committee held a hearing on the nomination of Anthony Principi to be the chairman of the base realignment and closure commission. In his comments to the committee, Mr. Principi stressed that the new commission would be bipartisan, that it would comply with the both the intent and spirit of the BRAC law, and would seek all and any information needed from the Department of Defense to make the right decisions.⁵⁹

On April 7, 2005, the House Appropriations Subcommittee on Military Quality of Life held a hearing on base realignment and closure and its relationship to DOD's global posture review.⁶⁰ In his opening remarks, Deputy Undersecretary of Defense Phil Grone underscored three key imperatives: (1) furthering the ongoing transformation of the armed forces; (2) maximizing the joint utilization of DOD's assets; and (3) eliminating DOD's excess infrastructure capacity, both at home and abroad. He said subsequently that global defense posture changes and domestic base realignment and closure were key, interlinked elements that supported on-going force transformation. "A well-supported capability-based force structure," he stressed

⁵⁶ Amy Klamper, "Sources Say Lott Is Blocking Base Closure Nominations," *National Journal CongressDailyPM*, March 31, 2005.

⁵⁷ See p. 9.

⁵⁸ Eric Schmitt, "Bush Sidesteps Lott's Effort to Delay Base Closings," *New York Times*, April 2, 2005.

⁵⁹ U.S. Senate. Committee on Armed Services. "Hearing on the Nomination of Anthony Principi to Be a Member of the Base Realignment and Closure Commission," March 15, 2005.

⁶⁰ U.S. House. Appropriations Subcommittee on Military Quality of Life. "Hearing on Base Realignment and Closure and Global Posture Review," April 7, 2005.

“should have infrastructure that is best sized and placed to support national security needs and emerging mission requirements.”⁶¹

On May 3, 2005, the new BRAC Commission held its first hearing, a morning session that opened with the swearing-in of all nine members. In the first hearing, the Commission was briefed by witnesses from the Congressional Research Service and the Government Accountability Office on the statute guiding the decisions and criteria that are to be applied in evaluating DOD’s proposed selection, the issues it is likely to face in the months to come, as well as the lessons learned from prior BRAC rounds.

In the afternoon session, the panel was briefed by the chairman of the National Intelligence Council on threats to the United States over the next 20 years. These threats included “unconventional tactics such as sabotage, terrorism, information attacks, and weapons of mass destruction used by terrorists insurgents and other non-state enemies that might alter how the military fights its battles.”⁶² A third hearing was held by the Commission on May 4, 2005, which addressed important DOD force structure issues, including the need to secure the United States from a direct attack and the need to strengthen partnerships and alliances abroad.

⁶¹ Ibid.

⁶² Megan Scully, “Base-Closing Commission Gets Underway with Briefing on Threats,” *Gov. Exec.com*, May 4, 2005.

The 2005 BRAC Timeline

The timeline below identifies the key actions involving the 2005 base closure and realignment round. The most important decisions are those of the President and Congress, which have the opportunity, in each of two cases, to completely shut down the overall BRAC process (see bold text).

Table 1. The 2005 BRAC Timeline

Key Actions	Date
Sec/Def must publish initial selection criteria in the <i>Federal Register</i> by:	12/31/03
— GAO must complete review of Sec/Def criteria by:	1/28/03
Sec/Def must publish final selection criteria in the <i>Federal Register</i> by:	2/16/04
Sec/Def final criteria becomes effective (unless disapproved by Act of Congress)	3/15/04
President must nominate Commission members by: (or BRAC process is terminated)	3/15/05
Sec/Def must send closure list to Commission, as well as to defense committees by:	5/16/05
— GAO must complete review of Sec/Def list by:	7/1/05
Commission must send closure list to President by:	9/8/05
— President must approve/disapprove by:	9/23/05
— Commission may revise list, but no later than:	10/20/05
President must certify Commission list by: (or BRAC process is terminated)	11/7/05
Congress has 45 days to pass motion of disapproval (or Commission's list becomes law)	
Termination of base closure Commission authority	4/15/06