TERMS OF REFERENCE

1. The Commander, United States Central Command (USCENTCOM), General James N. Mattis, has appointed Brigadier General Stephen Clark, U.S. Air Force, to investigate a 25-26 November 2011 engagement between U.S. and Pakistan Military Forces at Salala Checkpoint, Khas Kunar Province, Afghanistan near the Pakistan border. This engagement tragically resulted in the deaths of Pakistan Military personnel. General Mattis intends that the maximum possible information sharing, cooperation, and coordination occur between Brigadier General Clark and any Senior Representatives who may be designated by the North Atlantic Treaty Organization (NATO) / International Security Assistance Force (ISAF), the Government of the Islamic Republic of Afghanistan (GIRoA), and the Government of Pakistan (GoP).

a. The Commander, Allied Joint Force Command Brunssum (JFCB) has also appointed Brigadier General M. Jorgensen, Canadian Army (CAN A) to conduct an investigation into this same event. Brigadier General Jorgensen's investigation will focus on operational aspects and compliance with NATO direction, in order to evaluate whether ISAF Rules of Engagement, Standard Operating Procedures, tactics, techniques and any other applicable directives or procedures have been applied, implemented and followed.

b. Although two investigating officers have been appointed, they will form a composite investigative team that will collectively gather all relevant facts about this incident and report back to both NATO and USCENTCOM. Their investigative efforts will be closely coordinated and deconflicted to the maximum extent possible.

c. Any conflicts or requests for additional guidance in the conduct of the investigation will be forwarded to the respective Chiefs of Staff for USCENTCOM and JFCB for resolution.

2. Brigadier General Clark will work with whichever Senior Representatives are designated by NATO / ISAF, GIRoA, and the GoP.

3. The provision of Senior Representatives would greatly assist Brigadier General Clark in:

a. Conducting an objective, comprehensive inquiry that will endeavor to fully determine all relevant facts and circumstances regarding the 25-26 November 2011 engagement;

b. Identifying lessons learned from this matter; and

c. Developing recommendations that would minimize the potential for any recurrence of such a tragic event and that will improve cross-border security, communication, and cooperation.

4. Scope of Inquiry. Brigadier General Clark is charged to determine the following:

a. the facts and circumstances surrounding the engagement (to include a timeline and all pertinent events including Command and Control functions, deconfliction, authorizations, approvals, etc.) related to the engagement;

b. the specific U.S., ISAF, Afghanistan and Pakistan units that were involved in (to include before and after) the engagement;

c. what units (ground and air) did or did not cross the border and under what conditions and authority;

d. what coordination was conducted before, during and after engagement between the units involved;

e. what was the battle damage assessment and, to the extent possible, the cause of any deaths and/or injuries;

f. any recommendations concerning improvements to the tactics, techniques, and procedures of the units involved to improve our near-border operations; and any other relevant matters pertaining to this engagement.

5. Procedures.

a. Brigadier General Clark will endeavor to complete this inquiry as soon as practicable. He will arrange for and coordinate any meeting(s) with Senior Representatives that any of the parties feels is necessary and/or proper. Working meetings at the staff level could occur as needed.

b. Visits to relevant locations in and around the Salala Checkpoint may occur as needed and be subject to adequate security guarantees from the parties.

c. Signed statements will be sought from all witnesses and should be sworn or affirmed whenever possible. If a written statement cannot be obtained from a witness, a memorandum for record will be prepared documenting the contents of the witness's oral statement.

d. Brigadier General Clark will ensure the maximum possible openness and candor with respect to all Senior Representatives. To the extent possible, he will: answer any question raised by a Senior Representative within his Report of Investigation; respond to any concerns a Senior Representative may raise during the course of the investigation; and will coordinate through the Senior Representatives to receive evidence and interview persons from within their respective organizations / jurisdictions.

e. General Mattis will ensure that USCENTCOM or other US records / information included within the final report of investigation are classified at no higher a level than necessary. It is also his intent to have as much of the final report of investigation, or separate portions thereof, be susceptible to sharing amongst the parties and/or the general public.

(1) Every effort shall be made to declassify or downgrade the classification of information so that it can be coordinated and shared with the NATO/ISAF, GIRoA, and the GoP Senior Representatives as possible.

TERMS OF REFERENCE

(2) Consistent with their organization's / government's information security requirements, Brigadier General Clark will work with the Senior Representatives to locate and receive any relevant information that may be currently classified by the Senior Representative's organizations / governments.

(3) Brigadier General Clark may request the assistance of Senior Representative(s) to have any of their organization's / government's classified material be declassified and/or downgraded as much as possible so that it could be shared with other parties and/or included in the final report of investigation. It is understood, however, that any action regarding classified information will be solely determined by the organization / government that classified and produced the information in question.

(4) Restricted information or material (e.g. information that must be restricted to certain nations / organizations consistent with classification markings) will be included in the report of investigation only as is absolutely necessary.

(5) Brigadier General Clark will seek the concurrence of the Senior Representatives before the public release of any material to be included in the Report of Investigation.

6. General Mattis and the USCENTCOM staff will coordinate amongst the parties with respect to any public release of general information concerning any findings and recommendations that General Mattis may approve at the conclusion of Brigadier General Clark's investigation. For example, any press conference and/or press releases will be coordinated in advance amongst all parties. Public release of the final Report of Investigation, or portions therefore (less any classified information), will only occur after prior coordination amongst the parties. To the extent possible, General Mattis intends to obtain written understandings / approvals from the respective parties prior to any public release of any portion of the final report of investigation that may be required by the Freedom of Information Act or other United States law or regulation.

7. Every effort will be made within USCENTCOM to protect any information discovered or developed during this investigation from any unauthorized release. Brigadier General Clark will likewise work very closely with the Senior Representatives to prevent the unauthorized release of information from within their organizations / jurisdictions.

8. Brigadier General Clark may at any time request that either General Mattis, myself, or the USCENTCOM Chief of Staff modify any portion of these Terms Of Reference or the terms of the separate memo General Mattis used to appoint Brigadier General Clark as Investigating Officer. Approved modifications must be documented in writing.

FOR THE COMMANDER:

Robert S. Harward

ROBERT S. HARWARD
VADM, USN
Deputy Commander, U.S. Central Command