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Board of Inquiry Minutes of Proceedings

Convened By: Lieutenant-General J.C.M. Gauthier

Date of Convention: 13 September 2006

Topic of Inquiry:

Death of Major Hess-Von Kruedener,

Board Members

Colonel A. Boyer, President
Major J.A. Steeves, Member

Board Advisors

Major M.J. Dow, Legal Advisor
Major A.B. Currie, Medical Advisor
Lieutenant K.M. Allan, Public Affairs Advisor

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BOARD OF INQUIRY – COMMISSION D'ENQUÊTE

PROCEEDINGS OF BOARD OF INQUIRY PROCÈS-VERBAL DE LA COMMISSION D'ENQUÊTE		ASSEMBLED AT / RÉUNIE À		DATE	
Death of Major P. Hess-Von Kruedener,		Ottawa, Ontario		01 November 2006	
BY ORDER OF (SHOW RANK, INITIALS, NAME, DECORATIONS AND APPOINTMENT) / PAR ORDRE (INDIQUER LE GRADE, LES INITIALES, LE NOM, LES DÉCORATIONS ET L'AFFECTATION):					
Lieutenant-General J.C.M. Gauthier Commander Canadian Expeditionary Force Command					
FOR THE PURPOSE OF / EN VUE DE					
Investigating the circumstances surrounding the death of: Major P. Hess-Von Kruedener					
AUTHORITY / AUTORISATION					
Convening Authority – Commander Canadian Expeditionary Force Command					
THE BOARD HAVING ASSEMBLED PURSUANT TO ORDER, PROCEED TO / LA COMMISSION RÉUNIE CONFORMÈMENT À L'ORDRE DONNÉ, A COMMENCÉ À					
Examine all available evidence associated with the incident.					
WE CERTIFY THAT THIS DOCUMENT CONSISTING OF 66 PAGES (WITHOUT ANNEXES) CONTAINS TO BEST FOR OUR KNOWLEDGE A COMPLETE AND ACCURATE REPORT ON THE MATTER FOR WHICH THE BOARD WAS ASSEMBLED			NOUS CERTIFIONS QUE LE PRÉSENT DOCUMENT COMPOSÉ DE 66 PAGES CONTIENT, À NOTRE CONNAISSANCE, UN RAPPORT COMPLET ET DÉTAILLÉ SUR LE SUJET QUI A MOTIVÉ LA RÉUNION DE LA COMMISSION		
SIGNED AT / SIGNÉ À		CEFCOM HQ	THIS / CE	1st	DAY OF / JOUR D
				November	2006
PRESIDENT (NUMBER, RANK, INITIALS, NAME, DECORATIONS) PRÉSIDENT (MATRICULE, GRADE, INITIALES, NOM, DÉCORATIONS)			UNIT / UNITÉ		
 Colonel A. Beyer			1 Canadian Air Division		
SIGNATURE					
MEMBER (NUMBER, RANK, INITIALS, NAME, DECORATIONS) MEMBRE (MATRICULE, GRADE, INITIALES, NOM, DÉCORATIONS)			UNIT / UNITÉ		
 Major J.A. Steeves			Land Forces Doctrine and Training System		
SIGNATURE					

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EXECUTIVE SUMMARY

On 13 September 2006, Commander CEFCOM convened a Board of Inquiry (BOI) to investigate the circumstances surrounding the death of Major Hess-Von Kruedener. Major Hess-Von Kruedener was one of four United Nations (UN) Military Observers to lose their lives as a result of an attack on their Patrol Base in South Lebanon. The Board began its deliberations by developing a conceptual framework and a chain of events. The conceptual framework outlined the various actors engaged in this incident, and described their linkages and governance structures. The key actors in this case were the UN in the Mission Area, the UN Headquarters in New York, Canada (CEFCOM) and the Israeli Defence Forces (IDF). The chain of events was a chronological description of the events associated with the incident and was divided into semi-discrete segments: Pre-Deployment; Deployment; Routine Operations; Crisis; Incident; Incident Response; and, Repatriation.

Efforts were made to obtain documents and access to personnel within the IDF, UN and Canada. The efforts *vis-à-vis* Canada resulted in documentary evidence being supplied by the SJS, CDI, and CEFCOM as well as testimony being provided in a series of 14 formal sittings with CF members. Mrs Cynthia Hess-Von Kruedener represented the family and participated in all of the formal sittings.

Regarding the UN and IDF, the Board's requests for access were denied. In the case of the IDF, a non-paper summarizing the results of their internal investigation was provided to Canada, however, this report lacked sufficient detail to explore certain issues to their fullest extent. Regarding the Board's request for access to UN personnel and documentation it too was denied. The Board however benefited from receiving a copy of the UN BOI report, and in the UN's terms, this report was provided under "exceptional circumstances".

Major Hess-Von Kruedener was selected for employment as a UN Military Observer (UNMO), and deployed to the Middle East in October 2005. Upon arrival in the Middle East, Major Hess-Von was dispatched to the UN Truce Supervision Organisation (UNTSO) Headquarters for administrative processing and indoctrination training. He then traveled to South Lebanon to join Observer Group Lebanon (OGL). After arriving at OGL, he continued with more indoctrination training, and was assigned to be a member of Team Sierra, the northernmost of the four teams in OGL. As a new member of the Team, he participated in and completed an "apprenticeship" period. He remained in Team Sierra for the duration of his duty in Lebanon.

During the conduct of routine operations, the UNMOs' focus was on "observing and reporting". Tasks would include mobile patrolling, liaison, investigations, temporary observation posts, and static observation from the Patrol Base. Efforts were made to observe and report on issues that could threaten international peace and security, and a particular attention was paid to the status of military forces, socio-economic conditions, and terrain data from the Area of Operations (AO). OGL was a group from UNTSO, however, they operated under Operational Control of the Force Commander UN Interim Force in Lebanon (UNIFIL). Tasks conducted by OGL directly supported the mission and mandate of UNIFIL.

The Israeli-Hezbollah crisis began on 12 July 2006 with the kidnapping of Israeli soldiers. Clashes between the IDF and Hezbollah escalated to the point that there was a large scale protracted land incursion into South Lebanon by the IDF. The nature of the combat operations was very fluid and the Chief of Staff of UNTSO characterized it as "not a traditional military 'front' all through the area, but pockets of operations". As UNIFIL and OGL were interposed between the two belligerent forces, incidents involving fire from both sides were relatively

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common. Of the 45 UN positions in the AO, 36 experienced "Firing Close" and 16 including UNIFIL Headquarters experienced "Firing In".

On 25 July, Major Hess-Von Kruedener was on duty at Patrol Base Khiam. The vicinity of Patrol Base experienced three "waves" of bombardment throughout the course of the day, with the final starting at 1829hrs. At this point, four 155mm artillery rounds impacted on the Patrol Base compound. Consultation between the Chief of Staff UNTSO, Force Commander UNIFIL and Chief OGL resulted in a decision being made to evacuate Patrol Base Khiam at 0700hrs the next day. Plans were made, and at 1925hrs an adjacent Patrol Base transmitted the final details of the evacuation to the members of Patrol Base Khiam. At 1930hrs, Patrol Base Khiam failed to respond to a scheduled radio check. Soon thereafter, the timing of the evacuation was advanced, and a Recovery Team from the Indian Battalion was dispatched to the Patrol Base at 2010hrs.

The Recovery Team arrived at Patrol Base Khiam at 2155hrs. When they entered the compound they found the near total destruction of the main building. By 0155hrs, three of the four UNMO remains had been recovered. Due to the extent of the damage and the amount of rubble, the fourth body was unable to be recovered until 04 August 2006. Major Hess-Von Krudener's remains were one of the first three to be discovered, and on 26 July 2006, the bodies were transported to a morgue in South Lebanon. On 27 July 2006, the remains of the three UNNMOs were transported into Israel and flown to Tel Aviv. Major Hess-Von Krudener's remains were identified by a forensic team on 30 July 2006, and he was eventually released to Canadian authorities and flown back to Canada on 04 August 2006.

Throughout the course of the crisis and the incident, the UN chain of command was conscious of the risks associated with operating in such an environment, and made informed decisions that balanced the aim of mission accomplishment against those risks. The Canadian chain of command was also aware of the situation and acknowledged that the UN was more suitably placed to make tactical level decisions.

The Board made a total of 16 findings. While some were rather straightforward in nature, others were more complex and included assessments of "adequacy". Of the 16 findings rendered, the most salient are that both the UN and Canadian chains of command responded to the incident in an adequate fashion. Regarding the notion of blame, while the Board was unable to assign blame to any one individual, blame was attributed to the IDF as an institution. Regarding the notion of preventability, the Board considered that the incident was preventable should an alternative course of action been followed on the part of the IDF. Upon final consideration of the evidence available and the findings rendered, the Board made a series of 13 recommendations. These recommendations were related to issues such as communications infrastructure, command and control process, and liaison systems.

Ultimately, the Board viewed this incident as tragic and preventable. While the nature of the combat operations was unpredictable, there was an awareness of the risk inherent with UN interposition between two belligerent forces. Decisions made in the period leading up to the incident clearly reflected this risk, and balanced it against the strategic consideration to maintain a UN presence in South Lebanon. Regrettably, Major Hess-Von Krudener, along with his three colleagues, lost his life in the service of peace.

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INTRODUCTION

1. On 13 September 2006, Commander Canadian Expeditionary Force Command (CEFCOM), Lieutenant-General J.C.M. Gauthier, convened a Board of Inquiry (BOI) into the death of Major Hess-Von Kruedener.¹ The Board was composed of two Canadian Forces (CF) members and was assisted by medical, legal, and public affairs advisors. The Board assembled in Ottawa on 06 September 2006 to undergo mandated training and thereafter to investigate the circumstances surrounding the incident of 25 July 2006 which led to the death of Major Hess-Von Kruedener.
2. Preface. On 25 July 2006, four United Nations Military Observers (UNMO) from the United Nations Truce Supervision Organisation (UNTSO) perished when an Israeli aircraft attacked their Patrol Base (PB) in the village of El Khiam, South Lebanon. Major Hess-Von Kruedener was one of the UNMOs who lost their lives that day.² The circumstances surrounding this incident can be characterized as a complex web of interactions by actors that, when examined individually, possessed distinct interests and objectives, however, in this case, were linked together by the larger context of the Israeli Hezbollah conflict.
3. In an effort to describe this complex web of interactions, this report will begin by setting out the details related to the methods and methodology used by the Board. The report will then describe a contextual narrative in an effort to provide a broad understanding of the chain of events which begins with pre-deployment and culminates with the repatriation of Major Hess-Von Kruedener's mortal remains to Canada. Following the contextual narrative, the report will outline the findings made during the course of the Board's deliberations. These findings will include a detailed analysis of the facts established by the evidence available to the Board. The report will conclude with a series of recommendations intended to address issues raised as a result of examining the evidence.
4. Terms of Reference. At the outset, the Board resolved that a key aspect of its deliberations would be the development of a shared frame of reference on issues of terminology and a common understanding of the intent behind each of the mandated findings. The latter point was viewed to be an essential component, as without a firm grasp of the questions being asked, there was a risk of developing misguided methodologies, collecting superfluous evidence, establishing erroneous facts, making false conclusions regarding findings, and finally, proposing hollow recommendations. The following paragraphs summarize the discussions held in an attempt to avoid the aforementioned pitfalls.
5. For use during the Board's deliberations, the "incident" was defined as the period immediately preceding and following the fatal attack on the Patrol Base. In its strictest interpretation the incident could be viewed as the physical act of the aerial attack on Patrol Base Khiam and the subsequent explosion. For the purpose of developing and

¹ See Annex A – Terms of Reference

² The Canadian contribution to UNTSO is referred to as OP JADE

describing the chain of events, however, the Board decided to capture the actions and effects related to the fatal attack into an abstracted period of 24 hours. The end result is that the “incident” is defined as the period beginning at 1200hrs on 25 July 2006 and ending at 1200hrs on 26 July 2006.

6. As a means of providing context to the overall direction that the Board took during its deliberations, Appendix 1 to Annex A summarizes the Board’s determinations regarding the interpretation of mandated findings and outlines the facts required to render each of the findings.

7. Methodology. The Board began its deliberations by outlining a methodology for the inquiry. This methodology was based on the logical progression from the collection of evidence, to the establishment of facts and ultimately the rendering of findings. This logical progression saw as its foundation the establishment of facts, and accordingly, the methodology focussed initially on the determination of what facts were required to make each of the mandated findings. It was upon this list of facts that an evidence collection plan was developed.

8. In order to assist in the collection and analysis of the evidence that would be used to establish the required facts, two tools were developed: a chain of events; and, a conceptual framework. The chain of events is the chronological depiction of the events associated with the incident and is divided into semi-discrete segments. The conceptual framework is the lens through which each of the segments in the chain of events is analyzed. When employed together, the Board was able to identify the available and relevant information, and as a consequence, gaps in this information were highlighted. These gaps became the basis of the Board’s evidence collection plan.

9. Chain of Events. From the outset, it was imperative to delimit the inquiry in terms of scale and scope. As such, a fundamental component was the establishment of a chain of events with a logical beginning and conclusion.³ Through discussion, the Board determined that the chain of events as it applies to this inquiry should include the following segments:

- a. Pre-deployment – This segment was defined as the period which included pre-deployment training and administration;
- b. Deployment – This segment was defined as the period during which Major Hess-Von Kruedener was transferred to the UN, traveled into the Mission Area, and completed the training and indoctrination required to become a fully functioning UNMO;
- c. Routine Operations – This segment was defined as the period during which the status quo was established in terms of the duties and tasks associated with service as an UNMO;

³ See Annex B for a graphical depiction of the Chain of Events

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- d. Crisis – This segment was defined as the period of decisive conflict between Israel and Hezbollah, and began on the 12 July 2006 with the kidnapping of the two Israeli soldiers by Hezbollah;
- e. Incident – This segment was defined as the 24 hour period leading up to and immediately following the fatal engagement. This segment started at 1200hrs on 25 July 2006 and ended at 1200hrs on 26 July 2006;
- f. Incident Response – This segment was defined as the period between the fatal engagement and the transfer of Major Hess-Von Kruedener's remains from the UN to the CF; and
- g. Repatriation – This segment was defined as the period following the transfer of the remains to the CF until their return to Canada.

10. It is important to note that, while each of the segments in the chain of events is important in the overall context of the inquiry, the Board determined that a particular focus should be placed on the analysis of three of these: Routine Operations; the Crisis; and, the Incident. This decision was based on the determination that the balance of the mandated findings were primarily associated with those three segments.

11. Conceptual Framework. As mentioned above, the conceptual framework was the lens through which each of the segments in the chain of events was analyzed. The conceptual framework depicted the nexus of actors engaged in the incident.⁴ As determined by the Board, the conceptual framework included the following nodes:

- a. United Nations – Headquarters New York;
- b. United Nations – Mission Area;
- c. Canada; and
- d. Israeli Defence Forces (IDF).

12. In turn, each of the nodes listed above were defined in terms of key actors (who are the main players as related to the incident?), structures of governance (what rules exist to define associated responsibilities?), and linkages (how do the actors communicate with each other?). During the course of the Board's deliberations, the conceptual framework was applied to each of the segments in the chain of events. Specifically, the conceptual framework provided a mechanism that could be used to determine what was known about each portion of the chain of events, to include the actors involved, and the linkages and process that connected these actors.

13. Methods. The Board began its work by undertaking training provided by the Administrative Investigation Support Centre (AISC). Following this training, the Board

⁴ See Annex C for a graphical depiction of the Conceptual Framework

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conducted an initial scoping of the problem area and received a series of briefings from subject matter experts on issues such as:

- a. UN engagement in the Middle East;
- b. UNTSO, OGL and UNIFIL;
- c. Canadian Permanent Mission to the United Nations (PRMNY);
- d. Functioning of UN HQ and the Department of Peacekeeping Operations (DPKO);
- e. CEFCOM HQ structure and processes;
- f. Background to OP JADE; and
- g. Strategic Joint Staff (SJS).

14. These briefings provided the foundation upon which the Board began its deliberations.⁵ This process was initiated by the development of the conceptual framework and the delineation of the chain of events. The Board also began the search for documentary evidence, and concurrently, the identification of and informal discussion with potential witnesses. As documentary evidence was received, it was analyzed and relevant details were transcribed onto the chain of events.

15. As the Board exhausted the available documentary evidence, a review of the mandated findings was conducted. In particular, each finding was scrutinized with a view to developing an associated logical chain of facts that would permit the rendering of a specific finding.⁶ Furthermore, each fact was analyzed to determine who or what (document or thing) could be used as evidence to establish that particular fact. The information gleaned from this effort became the basis for the Board's evidence collection plan, a plan that identified specific individuals and documents and associated them with a specific fact. Based on this plan, a series of interviews were scheduled with Canadian personnel and requests were made to both the UN and IDF to obtain access to the identified individuals and documents.⁷

16. In order to provide a structure for the individual interviews, the Board used the framework developed from the analysis of the findings and the determination of required facts. This method provided for a degree of rigor, ensuring that the questions being asked were directly related to the establishment of a fact, which in turn, was related to the rendering of a specific finding. Using this framework as the basis, individual interview guides⁸ were developed for each of the personnel identified in the evidence collection

⁵ See Annex D – BOI Activity Resume

⁶ See Annex E – Graphical depiction of Findings, Facts, and sources of Evidence

⁷ See Annex F – Requests for Access

⁸ See Annex G – Interview Guides

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plan. As interviews were scheduled, personnel were provided with a summary of these questions in an effort to prepare them for the interview.

17. As the interviews were conducted and additional documentary evidence was obtained, each piece of information was examined with a view to determining how it refined the chain of events or was associated with the mandated findings. As this process matured, the Board was able to firmly establish the facts, and eventually, were able to obtain sufficient evidence, and make the relevant findings. Upon completion of the analysis and determination of the findings, the Board reviewed all the evidence with a view to developing specific recommendations. It was determined critical by the Board that any recommendation made must be firmly grounded upon the evidence collected during the course of the inquiry. The articulation of recommendations contained in this report was the final stage of the Board's deliberations.

STATEMENTS BY THE BOARD.

18. The Board made efforts to obtain access to UN personnel (both in the UN Headquarters in New York and in the Mission Area) and documentation. These efforts were coordinated through the Directorate of Peacekeeping Policy (DPK Pol) and eventually led to the issuing of formal instructions by the Department of Foreign Affairs and International Trade (DFAIT) to PRMNY, who acted upon these instructions and approached DPKO to obtain access to the identified individuals and documentation. DPKO ultimately denied the request. The Board therefore, has relied upon the results contained with the UN BOI report,⁹ particularly in the statements and documents contained in its accompanying annexes. This has limited the Board's ability to make certain findings either partially or in their entirety.¹⁰ Where this is the case, specific details are outlined in the analysis portion of the finding.

19. With respect to the information contained within the UN BOI Report and associated annexes, the Board has relied upon primary sources such as witness statements, and copies of UN Mission Area documents, as opposed to the assessments included within the report itself. The Board considers that these primary sources are reliable.

20. Under similar circumstances to the case outlined above, the Board requested access to several individuals within the IDF. The IDF did not grant access to these individuals, however, provided for the opportunity to meet with personnel from Strategic Planning and International Cooperation (SPINC) who were not actors in the incident. The IDF did provide Canada with a Non-Paper summarizing its internal investigation.¹¹ The Board determined that there would be little value to be obtained from directly engaging with these individuals; however, the Board did pose several questions of

⁹ The UN BOI Report is enclosed in its entirety. Where the Board felt it necessary to cite a specific aspect of the UN BOI Report the applicable excerpt has been included as a standalone annex to the CF BOI report.

¹⁰ See Annex F - Requests for Access

¹¹ See Annex H -- IDF Non-Paper

clarification, but at the time of publishing this report, a response had not been received.¹² The Board considers the IDF Non-Paper to be a secondary source of information, however, does not discount its reliability as it is viewed as the official position of the IDF.

21. Notwithstanding the aforementioned impediments, the Board considers that its ability to render findings was only somewhat limited. Specifically, while these impediments certainly had an effect on the Board's ability to obtain evidence, existing sources, such as the UN BOI report, did provide a sufficient foundation for the Board to address the fundamental issues related to the mandated findings. Had the Board been granted access to both the IDF and UN personnel and documentation, there is the chance that deeper analysis could have been conducted and that the findings would have been further substantiated, however. Having said this, it is the Board's assertion that this would not have affected the overall direction of the findings.

22. For the purpose of this BOI, the family representative was determined to be:

attended all of the formal sittings. viewed this as a positive measure as she was able to better comprehend the BOI process and to develop an understanding of the circumstances surrounding the incident.

23. During the investigation, multiple sources of evidence were used. The Board engaged in dialogue regarding the possibility of having acquired adverse evidence; however, the Board ultimately concluded that due to the "systemic" nature of the issues, there were no suggestions of individual misconduct, incompetence or wrongdoing or evidence that would have harmed an individual's reputation. Consequently the Board did not issue any notices of adverse evidence.

24. The TOR for the BOI indicated that the CF 98 and Autopsy Report were to be included with its report. In this particular case, a CF 98 was not prepared, and an Autopsy Report was not completed. Having said this, several documents related to the conduct of the autopsy were obtained and are included with this report.

CONTEXTUAL NARRATIVE

25. Introduction. The purpose of this section of the report is to describe in detail the context within which the incident is situated. As mentioned in paragraph 8, the Board developed two analytical tools: a conceptual framework; and, a chain of events. These tools have been used to determine how and what information is presented in this contextual narrative. The contextual narrative will take as its outline the major segments in the chain of events. Each of these segments will be delineated in the terms set out within the conceptual framework. All statements within this contextual framework are factual, and where applicable, reference has been made to specific documents that contain additional detail.

¹² See Annex F - Requests for Access

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26. Pre-Deployment. Major Hess-Von Kruedener was selected to become an UNMO with UNTSO, and in accordance with standard policies and procedures, a posting message was issued to this effect.¹³ Major Hess-Von Kruedener had previously been employed at the Peace Support Training Centre (PSTC) as an instructor. He undertook training at the PSTC, and successfully completed the Military Observer Course.¹⁴

27. The administration associated with Major Hess-Von Kruedener's posting to UNTSO was coordinated through the CEFCON Desk Officer responsible for OP JADE, Captain R. Washburn, and finalized at the United Nations by PRMNY. This process culminated with the UN issuing a travel instruction and plane tickets.¹⁵

28. Deployment. Major Hess-Von Kruedener traveled to the Middle East in October 2005. Upon landing in Tel Aviv, Israel, he was met by members of the Canadian Logistics Battalion from the United Nations Disengagement Observer Force (UNDOF). He completed a period of Canadian specific administration in Camp Zouani in UNDOF, and was then transported to UNTSO HQ in Jerusalem.¹⁶

29. Upon arrival in Jerusalem, Major Hess-Von Kruedener completed approximately four days of UNTSO indoctrination training, the goal of which was to familiarize the incoming UNMOs to the Mission Area, and Standard Operating Procedures. At some point, either prior to or during the conduct of the indoctrination, UNMOs are selected for and informed of the Duty Station that they would deploy to. In general terms, there are three Duty Stations that a new UNMO could be sent to: Observer Group Golan – Damascus (OGG-D) with UNDOF; Observer Group Golan – Tiberias (OGG-T) with UNDOF; and, Observer Group Lebanon (OGL) with UNIFIL. Major Hess-Von Kruedener was selected for and deployed to OGL on 14 October 2005.¹⁷

30. Once in OGL, Major Hess-Von Kruedener was subjected to an additional period of training. This included familiarization with the Area of Operations (AO), OGL organisation and roles, OGL mission and tasks, and specific safety and security issues related to OGL. New UNMOs were selected for deployment to one of the four OGL Teams (Zulu, Victor, X-Ray, and Sierra), and in this case, Major Hess-Von Kruedener joined Team Sierra.¹⁸

31. As a new member of the team, Major Hess-Von Kruedener undertook a final period of training. This training could be characterized as an "apprenticeship" period during which new UNMOs are familiarized with the team AO and details of daily routine and tasks that were specific to that particular team. Upon completion of this training, new UNMOs are certified as "Team Seniors" and are considered fully functioning UNMOs within OGL.¹⁹ Major Hess-Von Kruedener had conducted and successfully

¹³ See Annex I – Posting Message

¹⁴ See Annex J – Member's Personnel Record Resume

¹⁵ See Annex K – UNTSO Nomination Confirmation

¹⁶ See Annex L – Testimony from **Major B. Pond**, pages 3-4

¹⁷ See Annex L – Testimony from **Major B. Pond**, pages 3-7, and 26-27

¹⁸ See Annex L – Testimony from **Major B. Pond**, pages 5-8

¹⁹ See Annex L – Testimony from **Major B. Pond**, pages 9-12

completed all portions of the deployment training, and was a "Senior" with Team Sierra.²⁰

32. Routine Operations. OGL directly supports the UNIFIL mission and mandate and is composed of four Teams and a Headquarters staff. In general terms, the role of the UNMOs in OGL is to observe and report on activity within the AO. In order to do so, OGL has divided the AO into four separate geographical areas. These areas correspond to the geographical divisions within the UNIFIL AO in that the OGL AO is approximately the same as the UNIFIL AO, and additionally, the Team Areas correspond with the UNIFIL Battalion AOs (Teams Zulu and Victor are associated with the Ghanaian Battalion, and Teams X-Ray and Sierra are associated with the Indian Battalion). Each team has responsibility for one of these four areas and maintains a Patrol Base from which all operations are conducted and sustained.²¹ OGL Headquarters is collocated with UNIFIL Headquarters in Naqoura, Lebanon, and when not on duty, OGL UNMOs reside in apartments in²²

33. The focal point for operations within UNIFIL and OGL is the "Blue Line". This is the physical demarcation between Israel and Lebanon and is considered, for all intents and purposes, to be a border. The Blue Line was demarcated by a joint team led by the UN in 2000 after the Israeli withdrawal.²³ Team Sierra is responsible for the northern most section of the Blue Line, and their Patrol Base is located in the village of El Khiam. Patrol Base Khiam is located at the southern edge of a dominating piece of high ground overlooking the Blue Line.²⁴ It is approximately 4km from the Blue Line, and has built-up urban infrastructure on its northern flank.²⁵ Located in the Patrol Base vicinity are two known Hezbollah positions: one referred to as the "Prison", located approximately 200m to the north; and the second, located 200m to the west.²⁶

34. The Patrol Base proper can be best described as a "compound" which is surrounded by a wire fence topped with concertina wire. There are two entrances to the Patrol Base with the primary located on the northern parameter. There were several outbuildings including a gym, a hardened accommodation shelter, generator shed and parking for vehicles. Placed strategically throughout the compound were a series of blast walls that measured 5m in height. The main building was a two-story structure with an operations room and observation platform located on the top, and the kitchen and living area located on the bottom. Under this building was the "bunker" which was comprised of four rooms and contained water, rations and basic supplies.²⁷ Photos of the Patrol Base can be found in Annex CS, Appendix 4.

²⁰ See Annex M – UN BOI Report (Less Annexes), page 6

²¹ See Annex N – UNIFIL Area of Operations, and Annex L – Testimony from **Major B. Pond**, pages 52, and 56-58

²² See Annex L – Testimony from **Major B. Pond**, page 7

²³ See Annex O – UNIFIL Background Document, page 2

²⁴ See Annex L – Testimony from **Major B. Pond**, page 28

²⁵ See Annex M – UN BOI Report (Less Annexes), page 7

²⁶ See Annex M – UN BOI Report (Less Annexes), page 9

²⁷ See Annex M – UN BOI Report (Less Annexes), pages 7-8, and Annex L – Testimony from **Major B. Pond**, pages 21-22, and 35-37

35. In general terms, all OGL teams conduct similar tasks. These tasks are focused on the observation and reporting of incidents within the AO with a particular focus on the Blue Line. More specifically, OGL UNMOs conduct mobile patrols throughout the AO, static observation of the Blue Line from a temporary Observation Post (parked vehicle), and static observation from the Patrol Base. During the conduct of patrols, UNMOs meet regularly with the local population, Lebanese authorities, members of other teams, and personnel of the affiliated UNIFIL battalions. While patrolling and conducting meetings, UNMOs collect information on the status of military forces, socio-economic conditions, and physical conditions of the AO and infrastructure (conditions of roads, etc). OGL reporting is processed through UNIFIL Headquarters, with concurrent reports being sent to UNTSO Headquarters.²⁸

36. In order to accomplish the tasks mentioned above, OGL maintains a permanent presence in the AO with the Team Patrol Bases. OGL rotates UNMOs to these Patrol Bases on a staggered basis twice a week (Tuesday and Friday). On these days, UNMOs coming off duty at the Patrol Bases meet in OGL Headquarters with fresh UNMOs from Tyre, conduct a handover, and receive orders and instructions from the OGL Chief and Staff. Each rotation is different, however, as a norm, an UNMO is expected to perform a tour of duty for a period between four to seven days.²⁹

37. Strength at a Team Patrol Base generally consists of four to five UNMOs. During the course of a day, mobile patrols are dispatched from the Patrol Bases (a patrol is a single vehicle with at least two UNMOs, one of which is a "Senior", and an interpreter). At least one UNMO remains on the Patrol Base to conduct administration and logistics tasks. All UNMO activity (both on mobile patrol and in the Patrol Base) is monitored and coordinated by an operations centre at OGL Headquarters.³⁰

38. Considering that OGL directly supports the mission and mandate of UNIFIL, there is a great deal of interaction between the two organizations. In the AO, close communication is maintained between the teams and their affiliated Battalions, and on a regular basis, operational information is shared. Furthermore, joint training exercises are frequently conducted which include practice in such areas as casualty evacuation, and Patrol Base reinforcement. At the Headquarters level, OGL is fully integrated into the structure and processes of UNIFIL.³¹

39. During the conduct of routine operations, Canada maintains oversight of the Canadian UNMOs in the various Duty Stations. This was enabled through a diffuse Task Force structure (Task Force Middle East) with a Task Force Commander, **Major S. Boissonneault**, who reports directly to CEFCOM. Contact is maintained between the Canadian UNMOs and the Task Force Commander and a consolidated Situation Report is sent on a monthly basis to CEFCOM. Generally, there are seven Canadian UNMOs

²⁸ See Annex L – Testimony from **Major B. Pond**, pages 18, 48-50, and 68

²⁹ See Annex L – Testimony from **Major B. Pond**, pages 19-21

³⁰ See Annex L – Testimony from **Major B. Pond**, pages 12-14, 17, 22-24

³¹ See Annex L – Testimony from **Major B. Pond**, pages 24-25, 59-61, and 63-64

distributed throughout the various Duty Stations, and in this case, Major Hess-Von Kruedener was the only Canadian UNMO in OGL.³²

40. The period leading up to the Israeli-Hezbollah conflict was frequently punctuated by sporadic clashes that, in general terms, could be seen to follow the pattern of “action-reaction”.³³ These clashes occurred across the breadth of the Blue Line, however, it is important to note that the area known as the “Shab’a Farms” was particularly tense given the unique history and continued disagreement regarding the status of this territory. Patrol Base Khiam is located within this general area.

41. Crisis. The crisis began on 12 July 2006 when Hezbollah launched a rocket attack on Israel, immediately followed by a ground incursion across the Blue Line in the vicinity of the Israeli village of Zar’it. At the conclusion of the operation, two IDF soldiers had been kidnapped and eight killed. The swift Israeli response included the targeting of Lebanese infrastructure and Hezbollah positions with both artillery and aerial attacks. During the crisis period, conflict escalated to the point where the IDF were engaged in a protected ground incursion into Lebanese territory. Following the crescendo of the conflict, a UN brokered ceasefire came into effect on 14 August 2006, with the IDF reporting a complete withdrawal from Lebanese territory on 01 October 2006. The aim of this section of the report is not to offer a detailed description of the conflict per se, rather, the goal is to highlight specific actions that were being taken by the various parties to the conflict as identified within the conceptual framework.³⁴

42. Routine operations were being conducted by OGL and UNIFIL at the commencement of hostilities. Major Hess-Von Kruedener was rostered for duty on Patrol Base Khiam,³⁵ and was conducting his duties in accordance with standard practice.³⁶ In an effort to contextualize the time dimension, it is important to note that it was a 14 day period from the moment that the conflict began to the incident on 25 July when the four UNMOs lost their lives.

43. As a result of the escalating violence, the OGL UNMOs (and for the most part, all UNIFIL personnel) were confined to their locations.³⁷ For example, at the outset of the crisis, Chief OGL was located at PB Mar (Team X-Ray), and he remained there until such time as a relief could be organised.³⁸ As the conflict progressed, UNIFIL was eventually able to coordinate activities such as reliefs and re-supplies, and further in the conflict, humanitarian tasks were conducted to support the local population. For example, Patrol Base Khiam was relieved on 17 July 2006 to replace one of the UNMOs.³⁹ OGL

³² See Annex P – Testimony from Commander TFME, **Major S. Boissonneault**, page 15

³³ See Annex O – UNIFIL Background Document

³⁴ For more background on the Israeli-Hezbollah conflict see Annex Q – Background to Israeli-Hezbollah Conflict and Annex R – Report of the Secretary General on UNIFIL

³⁵ See Annex S – OGL Duty Rosters

³⁶ See Annex T – Statement of

³⁷ See Annex M – UN BOI Report (Less Annexes), page 7

³⁸ See Annex S – OGL Duty Rosters

³⁹ See Annex U – OP JADE Situation Reports, Appendix 3, paragraph 8, and Annex Y – Environmental/Context Statement 12-25 July 2006, paragraph 5

movement, apart from coordinated administration and logistics activities was curtailed, and the OGL UNMOs were limited to conducting static observation tasks from the Patrol Bases. This condition remained constant throughout the period leading up to the incident.

44. On 15 July 2006, the IDF unilaterally declared that a "Special Security Zone" had been established in South Lebanon. In geographic terms, this zone extended along the length of the Blue Line and, on average, had a depth of 5-7km. In practical terms, this zone comprised 36 villages (14 of which were completely within the zone) and of the 42 UN positions, 25 were located along or completely within the zone.

45. The Chief of Staff UNTSO characterized the general nature of the conflict as "not a traditional military 'front' all through the area, but pockets of operations".⁴¹ Other sources confirm that combat was very fluid in nature, and that it was difficult to predict its ebbs and flows.⁴² As a result of these conditions, the OGL UNMOs located at the Patrol Bases were witness to a great deal of the conflict, to the extent that all Patrol Bases experienced "Firing Close" and some even experienced "Firing In".⁴³ There were 145 "Firing Close" and 16 "Firing In" on 36 out of the 45 UNIFIL and OGL positions within the AO.⁴⁴ An indicator of the nature of the conflict in the vicinity of PB Khiam is that from 13 to 25 July, Team Sierra reported a total of 52 "Firing Close" and 2 "Firing In". During this entire period, there were only five days (15, 17, 18 19 and 23 July 2006) where Team Sierra did not report any operational activity.⁴⁵

46. During instances of sustained operational activities, the OGL UNMOs were located in their Patrol Base bunkers. The bunkers contain communications equipment, emergency food and water, and basic provisions.⁴⁶ OGL UNMOs also moved to the bunkers when "Shelter Warnings" were received from the IDF. These warnings were issued by the IDF as a means of telegraphing impending operational activity in certain areas, and were ostensibly intended to be a mechanism for enhancing the security of UN personnel in the Mission Area.⁴⁷

⁴⁰ See Annex V – UN Code Cables, Appendix 6, specifically IDF letter to Force Commander UNIFIL

⁴¹ See Annex W – Notes of Meeting between UN BOI and Chief of Staff UNTSO, 01 September 2006

⁴² See Annex Y - Environmental/Context Statement 12-25 July 2006

⁴³ These are terms employed by OGL and UNIFIL to describe the effects of fire and form the basis for follow-on action including protests. "Firing Close" are rounds that impact close to a location, "Firing In" are rounds that impact the location. For a detailed description of these procedures see Annex X – UNIFIL Standard Operating Procedures – Firing Close

⁴⁴ See Annex M – UN BOI Report (Less Annexes), page 5

⁴⁵ See Annex Z - Statement of UNIFIL Chief Operations Officer cited in his Annex A

⁴⁶ See Annex L – Testimony from **Major B. Pond**, pages 21-22

⁴⁷ See Annex H – IDF Non-Paper, page 3, Annex P, Testimony from Commander TFME, page 5, and Annex L – Testimony from Major B. Pond, pages 38-39

47. At a level of Mission Headquarters and UN Headquarters, DPKO was quick to recognize the gravity of the situation and begin monitoring its effects. Contact with UNIFIL Headquarters, as was the practice during routine operations, was maintained and at times enhanced with regular assessments of the situation being passed from Force Commander UNIFIL to DPKO.⁴⁸ Daily meetings were conducted in UN Headquarters, and information flowed to the various offices.⁴⁹ Consideration was given at various points in the conflict to the safety of UN personnel, and one demonstration of this is the Security Phase level increases that were implemented during the conflict. For example, Security Phase levels⁵⁰ were increased on 12, 14, and 16 July 2006, culminating with a declaration of Phase IV on 20 July 2006 which resulted in a complete evacuation of all non-essential civilian personnel.⁵¹

48. Of particular significance is that during the course of the conflict, several UN injuries were sustained. Four soldiers, three soldiers and one officer were wounded as a result of firing.⁵² Furthermore, on 17 July 2006 a UN civilian employee and his wife were killed as a result of the shelling on Tyre.⁵³

49. Concurrent with the various actions that were being taken in the Mission Area, Canada was engaged in planning for OP LION, Canada's effort to evacuate citizens from Lebanon, and

As a result, a significant amount of attention was focused on the events in South Lebanon. A direct impact of this at the operational level (CEFCOM) was an increased awareness of the operational activity being conducted in South Lebanon including the immediate effects of the combat, and the possible threats to personnel. Encompassed in these efforts was an overt recognition that Canada had a soldier located in South Lebanon. At the tactical level, this recognition manifested itself in email contact between the Task Force Commander and Major Hess-Von Krudener, and regular communication between the Task Force Commander and CEFCOM Headquarters.⁵⁴

50. Incident. For the purpose of the Board's deliberations, the incident was defined in physical terms as the fatal aerial attack on Patrol Base Khiam. In order to address all aspects related to this incident, the Board examined in detail the 24 hour period from 1200hrs on 25 July 2006 to 1200hrs on 26 July 2006. As such, the following narrative will account for this period of time.

⁴⁸ See Annex V – UN Code Cables, Appendices 1, 3, 6, 7, 9, 11, and 14

⁴⁹ See Annex AA - Lebanon Crisis Coordination Meetings

⁵⁰ For a detailed description of the Security Phases see Annex AB - United Nations Field Security Handbook, Chapter 5, pages 13-18

⁵¹ See Annex AA - Lebanon Crisis Coordination Meetings

⁵² See Annex AC – UNIFIL Press Releases, Appendix 10

⁵³ See Annex R – Report of the Secretary General on the United Nations Interim Force in Lebanon, paragraph 10, and Annex AC – UNIFIL Press Releases, Appendix 10

⁵⁴ See Annex AD - Testimony from CEFCOM J3, Colonel S. Noonan, pages 3-4

51. On 25 July 2006, prior to the incident, Patrol Base Khiam was subjected to 14 aerial bombs within 500m and 19 artillery rounds impacting within 150m of the compound.⁵⁵

52. The impacts can be grouped into three "waves", where the first bombardment occurred between 1211hrs and 1335hrs and included both artillery and aerial bombs.⁵⁶ The second bombardment was between 1418hrs and 1449hrs and protests were made to the IDF regarding these incidents.⁵⁷

53. The final bombardment in the vicinity of Patrol Base Khiam began at 1829hrs. At this point, twelve 155mm artillery rounds impacted near the Patrol Base four of which impacted the compound.⁵⁸ Following this event, Chief OGL approached the Senior Liaison Officer of UNIFIL and requested that contact be made with the IDF to stop firing at the position. This contact was made and IDF Northern Command was advised that they were putting "UNMOs lives at risk".⁵⁹ The Patrol Base sustained extensive destruction, including damage to the door of the bunker. Both the Chief OGL and Force Commander UNIFIL recognized that the Patrol Base was no longer safe.⁶⁰ Consultations were held between Chief OGL, Force Commander UNIFIL and Chief of Staff UNTSO, and a decision was made to evacuate the Patrol Base at 0700hrs on 26 July.⁶¹ The decision to wait until the next morning was based on several considerations including waiting for the situation to become less tense, allowing time to coordinate movement through the liaison network, and conducting the move during daylight.⁶²

54. Evacuation plans were formulated and initiated, and in an effort to mitigate the immediate threat to the Patrol Base, further liaison efforts were made to have the IDF halt their attack.⁶³ These efforts included contact between the IDF and the OGL Liaison Officer, the UNIFIL Liaison Officer and the Force Commander himself.⁶⁴ Furthermore, UN Headquarters was apprised of the situation, and in turn, both the Assistant-Secretary General for Peacekeeping Operations and the Deputy-Secretary General telephoned the Israeli Permanent Representative to protest the firing on Patrol Base Khiam. However,

⁵⁵ Annex AF – OGL Current Operations Activity Log 242000 to 252300 July 2006

⁵⁶ See Annex AE - UNIFIL Daily Situation Reports, Appendix 2, and Annex AF – OGL Current Operations Activity Log 242000 to 252300 July 2006

⁵⁷ See Annex AG – Statement of Chief OGL,

⁵⁸ See Annex Z - Statement of UNIFIL Chief Operations Officer, paragraph 4

⁵⁹ See Annex T – Statement of paragraph 6

⁶⁰ See Annex Z - Statement of UNIFIL Chief Operations Officer paragraph 5

⁶¹ See Annex AH - Notes of Meeting between UN BOI and Force Commander UNIFIL, and Annex AI - UNTSO Duty Officer Log

⁶² See Annex T – Statement of paragraph 8

⁶³ See Annex AG - Statement of Chief OGL,

⁶⁴ See Annex Z - Statement from UNIFIL Chief Operations Officer, paragraph 6, Annex AH - Notes of Meeting between UN BOI and Force Commander UNIFIL, paragraph 5, Annex AJ – Statement of UNIFIL Senior Liaison Officer, and Annex AK – Statement of OGL Liaison Officer,

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contact with the Israeli Permanent Representative was unable to be established before the fatal attack on Patrol Base Khiam.⁶⁵

55. After a short reprieve from 1830hrs to 1915hrs, the bombardment in the vicinity of Patrol Base Khiam recommenced. Patrol Base Khiam reported incidents of "Firing Close" at 1915, 1916, and 1917hrs respectively.⁶⁶

56. At 1925hrs Patrol Base Mar (adjacent Patrol Base) relayed the details of the planned evacuation operation to Patrol Base Khiam.⁶⁷ A "radio check" was scheduled for 1930hrs, however, no contact was able to be established with Patrol Base Khiam.⁶⁸

57. This loss of contact with Patrol Base Khiam precipitated a series of actions by the OGL, UNIFIL, and UNTSO. Ultimately a decision was made at 2010hrs to advance the timing of the evacuation operation and efforts were made to coordinate the details with the IDF.⁶⁹ Soon thereafter, the Evacuation Team from the Indian Battalion was launched. Delays were incurred on route due to the poor condition of the roads and continued shelling, and the team eventually reached the Patrol Base at 2155hrs. As the team approached the Patrol Base compound, the gate was locked, and after breaking it down, they were met with what the Recovery Team Leader described as the almost total destruction of the main Patrol Base building.⁷⁰

58. The efforts to search through the rubble continued throughout the night and into the next day. The first body was recovered at 2232hrs on 25 July 2006. The recovery efforts continued and the second and third bodies were recovered at 2320hrs and 0155hrs respectively.⁷¹ Efforts were suspended during the evening of 26 July due to a lack of sufficient heavy equipment to execute a full search, and it was not until 1130hrs on 04 August 2006 that the fourth body was recovered.⁷² Major Hess-Von Kruedener's remains were one of the three to be recovered at this time.⁷³

59. Throughout the recovery effort of 25 and 26 July, reporting indicates that the vicinity of El Khiam was sustaining IDF fires.⁷⁴

⁶⁵ See Annex AL - Notes of Meeting between UN BOI and Assistant Secretary General J and Annex AM - Notes of Meeting between UN BOI and Deputy Secretary General

⁶⁶ Annex AF - OGL Current Operations Activity Log 242000 to 252300 July 2006

⁶⁷ Annex AN - Statement of , dated 31 July 2006

⁶⁸ Annex T - Statement of , paragraph 16, and Annex AO - Statement of ' dated 31 July 2006

⁶⁹ See Annex Z - Statement of UNIFIL Chief Operations Officer, , paragraph 7

⁷⁰ See Annex AP - Statement of UNIFIL Recovery Team Leader, , dated 06 September 2006, paragraphs 1-3

⁷¹ See Annex AP - Statement of UNIFIL Recovery Team Leader, , dated 06 September 2006, paragraph 4

⁷² See Annex AP - Statement of UNIFIL Recovery Team Leader, , dated 06 September 2006, paragraphs 6-7

⁷³ Annex AQ - Timeline for Retrieval of Remains

⁷⁴ See Annex AP - Statement of UNIFIL Recovery Team Leader, , dated 06 September 2006, paragraph 5

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60. CEFCOM after being notified by Commander TFME at 1710hrs EDT (0010hrs LT)⁷⁵, the CEFCOM Command Centre (CCC) initiated a "Bell Ringer" for an Integrated Operations Planning Group (IOPG). The IOPG commenced at 1930hrs EDT (0230hrs LT).⁷⁶

63. Repatriation. On 30 July 2006 a memorial service was held at UNTSO Headquarters in Jerusalem for the four deceased UNMOs. A formal ceremony for the handover of the mortal remains of Major Hess-Von Kruedener was conducted at the Ben Gurion airport in Tel Aviv on 03 August 2006, where they were transferred from the authority of the Chief of Staff UNTSO to TFME.⁸² Here, Major Hess-Von Kruedener's remains were flown from Tel Aviv to Cyprus. On 04 August 2006, Major Hess-Von Kruedener's remains were transported from Cyprus to Canada on board a CF flight which arrived in Trenton, Ontario that evening.⁸³

⁷⁵ See Exhibit 4 , page 5

⁷⁶ See Annex AR – Captain R. Washburn Timeline, and Annex AS – Incident Management System Log Entries provided by CEFCOM, page 21

⁷⁷ See Annex AP - Statement of UNIFIL Recovery Team Leader, dated 06 September 2006, paragraph 6

⁷⁸ See Annex AE – UNIFIL Daily Situation Reports, Appendix 4

⁷⁹ See Annex AT – Emails from Major M. Bégin – Confirmation of Death

⁸⁰ See Annex AU – Emails Related to the Gathering and Release of Medical Information

⁸¹ See Annex AV – Observation of Post Mortem Examination, and Annex AW – CF Medical Certificate of Death– Major Hess-Von Kruedener

⁸² See Annex AX – Commander's Update on the Current Conflict 06/06

⁸³ See Annex AY – Tasking Order OP JADE Repatriation of Remains

FINDINGS AND ANALYSIS

64. Introduction. This section of the report will outline the results of the Board's deliberations as they relate to specific findings. The articulation of each finding will be followed by an analysis of the facts that were established by the Board. Where applicable, the facts will be corroborated by multiple sources of evidence. The framework for the analysis of each of the findings is stipulated in paragraph 6 of this report.

67. Finding – Whether the deceased was on duty at the time of death. The Board finds that Major Hess-Von Kruedener was on duty at the time of death.

68. Analysis. This finding is supported by the analysis of the following facts:

- a. He was posted to UNTSO in accordance with standard practices and procedures⁸⁵;
- b. He was assigned to duty at OGL⁸⁶;
- c. He was a member of Team Sierra whose primary place of duty was Patrol Base Khiam⁸⁷; and
- d. He was rostered for duty at Patrol Base Khiam at the beginning of the conflict and remained on duty until the time of his death⁸⁸.

69. Finding – Whether the deceased or any other person was to blame for the injuries and death. The Board finds that Major Hess-Von Kruedener was not to blame for his own death. The Board was unable to determine if a specific individual was to blame for the death; the Board does however find that, as an organization, the IDF is responsible for the death of Major Hess-Von Kruedener.

⁸⁴ See Annex AV – Observation of Post Mortem Examination, and Annex AW – CF Medical Certificate of Death – Major Hess-Von Kruedener

⁸⁵ See Annex I – Posting Message

⁸⁶ See Annex L – Testimony from Major B. Pond, page 5 and Annex P – Testimony from Commander TFME, pages 15, and 51

⁸⁷ See Annex L – Testimony from Major B. Pond, page 5, and Annex S – OGL Duty Rosters

⁸⁸ See Annex S – OGL Duty Rosters

70. Analysis – Blame – Major Hess-Von Kruedener. In accordance with the tests of means, foreseeable results, and duty, the Board did not find any evidence to suggest that Major Hess-Von Kruedener was to blame for his own death.

71. Analysis – Blame – Other individuals. The Board did not find any evidence to suggest that anyone within either the UN or Canadian chain of command was to blame for the death of Major Hess-Von Kruedener. The Board was unable to determine if a specific individual within the IDF was to blame for the death of Major Hess-Von Kruedener. It is critical to note that, in this regard, the Board's inability to discern evidence related to a finding of blame does not connote an absolute lack of evidence. Rather, as a result of the IDF decision to restrict the Board's access to the relevant IDF personnel at the tactical and operation levels, the Board was simply not in a position to search for relevant evidence.

72. Analysis – Blame – IDF. Regardless of the Board's inability to assign blame at the individual level, the IDF has clearly accepted responsibility for the incident.⁸⁹ The IDF has attributed the targeting of, and subsequent attack on Patrol Base Khiam to an operational error. The Board was not in a position to verify the IDF claim, however, the facts that support the analysis of this finding are:

- a. Duty. The *Convention on the Safety of UN and Associated Personnel* sets out an obligation to safeguard UN installations and personnel.⁹⁰ The IDF has acknowledged the special protection due to the UN, and signaled its intent to take all necessary measures to minimize risk to UN personnel.⁹¹ At the time of the incident, the IDF had put in place a system of targeting safeguards to protect UN installations and personnel. These safeguards included the imposition of a safety template, or "no-fire-zone" around UN installations.⁹² Furthermore, the Prime Minister of Israel offered assurances to the Secretary General that the UN would not be targeted⁹³;
- b. Foreseeable results. The results of this incident were foreseeable to the IDF. More specifically, the effects of the direct impacts registered at 1829hrs were communicated to the IDF liaison network with clear and forceful intent and at several levels including the Force Commander stating "you are killing my people"⁹⁴; and

⁸⁹ See Annex H – IDF Non-Paper, conclusion on page 6

⁹⁰ See Annex AZ - The Convention on the Safety of UN and Associated Personnel, and Annex BA – UN Security Council Resolutions related to UNIFIL, Appendix 3, paragraph 4

⁹¹ See Annex H – IDF Non-Paper, conclusion on page 7, and Annex BB - Notes of Meetings with IDF, Appendix 4, paragraph 4

⁹² See Annex H – IDF Non-Paper, conclusion on page 4

⁹³ See Annex BC - Notes of Meeting between UN BOI and , paragraph 3

⁹⁴ See Annex Z - Statement from UNIFIL Chief Operations Officer, paragraph 6,
Annex AH - Notes of Meeting between UN BOI and Force Commander UNIFIL, paragraph 5, Annex AJ –
Statement of UNIFIL Senior Liaison Officer, and Annex AK – Statement of
OGL Liaison Officer,

- c. Means. The IDF had the means to change the outcome of the incident, through the already established internal liaison network and the liaison connections with the UN. On previous occasions, the UN protested incidents of "Firing Close" and "Firing In", and the IDF internal liaison network was able to have the fires halted.⁹⁵ In this particular case, approximately 40 minutes elapsed from the time that protests were initially lodged with the IDF regarding the four rounds impacting the Patrol Base to the time of the incident. While the IDF has acknowledged the receipt of the protests from the UN⁹⁶, it has failed to explain why the attack was not halted.

73. Finding – Whether the death was attributable to military service. In accordance with CFAO 24-6, paragraph 30, the Board finds that Major Hess-Von Kruedener's death was attributable to military service.

74. Analysis. During the period immediately preceding the incident, the tasks being conducted by Major Hess-Von Kruedener were consistent with those conducted during routine operations as an UNMO. Additionally, an UNMO from PB Mar spoke to Patrol Base Khiam immediately prior to the incident and stipulated that he heard Major Hess-Von Kruedener's voice⁹⁷, and Major Hess-Von Kruedener's body was recovered in the remains of the bunker⁹⁸; together, these indicate that Major Hess-Von Kruedener was in the bunker at the time of the incident which was an action that is consistent with the exigencies of military service as a UNMO during such conditions. In general terms, this finding is supported by the analysis of the following facts:

- a. Nature of the mandated tasks. During the conduct of routine operations, UNMOs in OGL would conduct mobile patrols, temporary observation posts, liaison tasks, and static observation from the Patrol Base⁹⁹; and
- b. Nature of the tasks conducted during the crisis. During the period leading up to the incident, UNMOs at Patrol Base Khiam were conducting static observation from the Patrol Base.¹⁰⁰ This was periodically interrupted by operational activity which necessitated a retreat to the Patrol Base bunker. Patrol Base Khiam personnel, including Major Hess-Von Kruedener, were reporting operational activity throughout the course of the day, and continued to do so even while in the bunker.¹⁰¹

⁹⁵ See Annex BB - Notes of Meetings with IDF, Appendix 1, paragraph 15

⁹⁶ See Annex BB - Notes of Meetings with IDF, Appendix 1, paragraph 13, and Appendix 3, paragraph 6

⁹⁷ See Annex AN – Statement of

⁹⁸ See Annex AP – Statement of UNIFIL Recovery Team Leader, paragraph 3 and 4

⁹⁹ See Annex L – Testimony from Major B. Pond, pages 48-50

¹⁰⁰ See Annex AH – Notes of Meeting between UN BOI and Force Commander UNIFIL, paragraph 11

¹⁰¹ See Annex AK – Statement of OGL Liaison Officer, and Annex AF – OGL Current Operations Activity Log 242000 to 252300 July 2006

75. Finding – The circumstances surrounding the death including the cause, date, time and location of the incident. The Board finds that Major Hess-Von Kruedener died on 25 July 2006 between 1925hrs and 1930hrs at Patrol Base Khiam in South Lebanon as the direct result of an explosion caused by a 500kg **GPS guided Joint Direct Attack Munition (JDAM)** bomb delivered by an Israeli Air Force (IAF) aircraft. Furthermore, the Board finds that the general context within which the death of Major Hess-Von Kruedener occurred can be characterized as a non-linear combat environment that was occupied by, on one side, a highly conventional force (IDF), and on the other, a non-conventional force (Hezbollah).

76. Analysis. This finding is supported by the analysis of the following facts:

- a. Nature of the Combat Operations. The nature of the combat operations in South Lebanon during the crisis escalated well beyond what had been the standard pattern of Hezbollah-Israeli interaction across the Blue Line. By the time of the incident, the IDF was fully engaged in a protracted ground incursion into South Lebanon. These ground incursions were typically focused on specific operations against a specific target and would see ground forces, supported by artillery and aircraft conduct a cordon of an objective area, prosecution of an effect on the objective area, and then either a partial or complete withdrawal to hardened positions on the Israeli side of the Blue Line. Operations were directed toward suspected Hezbollah positions, lines of communication and infrastructure. As Hezbollah was well integrated with the civilian population and infrastructure, IDF operations were frequently conducted in built-up areas close to or amongst the civilian population. Patrol Base Khiam was located close to such an objective at the southern edge of the El Khiam village, and the attacks of that day were preparatory fires for an intended ground incursion within that vicinity¹⁰²;
- b. Nature of the Conditions on the PB. By the time of the incident, the crisis was in its 14th day. The UNMOs at Patrol Base Khiam had been restricted to static observation duties, with the only movement outside the Patrol Base compound being a resupply and relief convoy that arrived at the Patrol Base on 17 July 2006.¹⁰³ With the exception of only five days during this period, Patrol Base Khiam witnessed daily bombardment including both artillery and aerial delivered munitions. During periods of intense operational activity, the UNMOs took refuge in the bunker. The daily routine during this period would have consisted of static observation and reporting, sustainment, and refuge in the bunker;
- c. Cause.

¹⁰² See Annex Y – Environmental/Context Statement 12-25 July 2006

¹⁰³ See Annex Y – Environmental/Context Statement 12-25 July 2006, paragraph 5

- d. Date, time and location. The remains of all four UNMOs were recovered from the vicinity of the Patrol Base bunker.¹⁰⁷ The incident occurred between 1925hrs and 1930hrs on 25 July 2006 as communication between Patrol Base Mar and Patrol Base Khiam occurred at 1925hrs (when plans for an evacuation were relayed) and the Patrol Base did not respond to a scheduled "radio check" at 1930hrs.¹⁰⁸ A Company Commander from Indian Battalion also indicates that an aerial bombardment occurred in the vicinity of El Khiam during this same period, further corroborating the fidelity of this timeframe¹⁰⁹; and
- e. Personal factors. Regular contact with Patrol Base Khiam was maintained throughout the course of the day up to and including several minutes prior to the incident. Considered in total, there were no indications of any personal factors (fatigue, stress, etc) that could have affected the outcome of the incident. By all reports, the UNMOs on Patrol Base Khiam were performing their duties, and reporting operational incidents, and were in relatively good spirits.¹¹⁰ There is an indication that the mood of the UNMOs changed when the Patrol Base suffered four direct hits at 1829hrs¹¹¹; having said this, an UNMO from Patrol Base Mar indicates that they maintained their composure and that there was a sense of relief when at 1925hrs, he relayed the instructions for the evacuation scheduled for the next morning¹¹².

¹⁰⁶ See Annex H – IDF Non-Paper, pages 3-4

¹⁰⁷ See Annex AP – Statement of UNIFIL Recovery Team Leader, paragraphs 3, 4, and 7

¹⁰⁸ See Annex AO – Statement of

¹⁰⁹ See Annex BD – Statement of Commanding Officer Indian Battalion, Appendix 1

¹¹⁰ See Annex AN – Statement of

¹¹¹ See Annex T – Statement of and Annex AO – Statement of

¹¹² See Annex AN – Statement of

77. Finding – The details of the mission being conducted by the deceased at the time of the incident. The Board finds that Major Hess-Von Kruedener was an UNMO with UNTSO, assigned to OGL. Furthermore, the Board finds that as an UNMO with OGL, Major Hess-Von Kruedener was operating under the Operational Control of Force Commander UNIFIL, and the tasks being conducted during the period leading up to and at the time of the incident were in support of the UNIFIL mission and mandate and consisted of static observation from the Patrol Base.

78. Analysis. Pursuant to the various command and control relationships in place at the time of the incident, and specifically regarding the mission and tasks being conducted by Major Hess-Von Kruedener as a member of OGL this finding is supported by the analysis of the following facts:

- a. UNTSO mission and mandate. Created in 1948, UNTSO includes approximately 151 UNMOs. The activities of these UNMOs are coordinated by UNTSO Headquarters in Jerusalem and are focused on the mandate of supervising the Armistice Agreements between Israel and its neighbors. While UNTSO does conduct limited independent operations and activities and continues to maintain relations with the five host countries (Egypt, Israel, Jordan, Lebanon and the Syrian Arab Republic)¹¹³ the bulk of its UNMOs are placed under the Operational Control of other UN missions in the region. Specifically, 57 UNMOs are tasked to support UNDOF and another 50 are tasked to support UNIFIL.¹¹⁴ These UNMOs are under the Operational Control of their respective Force Commanders, and as such, directly support that Force's mission and mandate¹¹⁵;
- b. UNIFIL mission and mandate. UNIFIL was established in 1978 under UN Security Council resolutions 425 and 426. These resolutions set forth the UNIFIL mandate which is to:
 - i. Confirm the withdrawal of Israeli forces from South Lebanon;
 - ii. Restore international peace and security; and
 - iii. Assist the Government of Lebanon in ensuring the return of its effective authority in the area.¹¹⁶
- c. At the time that the crisis commenced, UNIFIL was a force of approximately 2000 all ranks focused on maintaining the ceasefire along the Blue Line.¹¹⁷ The Secretary General considered that two of the three

¹¹³ See Annex BE – UNTSO Background Document

¹¹⁴ See Annex O – UNIFIL Background Document and Annex BF – UNDOF Background Documents

¹¹⁵ See Annex BG – Command Directive for the Chief of Staff UNTSO, paragraph 6

¹¹⁶ Annex BA – UN Security Council Resolutions related to UNIFIL, Appendices 1 and 2

¹¹⁷ See Annex O – UNIFIL Background Document

- ¹¹⁸ Annex BA – UN Security Council Resolutions related to UNIFIL, Appendix 3

¹¹⁹ Annex M – UN BOI Report (Less Annexes), pages 3 and 5

¹²⁰ See Annex L – Testimony from Major B. Pond, pages 40-50

¹²¹ See Annex V – UN Code Cables, Appendix 6

¹²² Annex AO – Statement of

¹²³ See Annex AK – Statement of OGL Liaison Officer, Annex AG – Statement of Chief OGL, paragraph 7, and Annex AN – Statement of

¹²⁴ Annex AK – Statement of OGL Liaison Officer.

79. Finding – The details of the CF command, control and communications of the deceased's mission at both the national and theatre level. The Board finds that there is a clear chain of command, with a commander at the strategic level (Chief of Defence Staff), the operational level (Commander CEFCOM) and the tactical level (Commander TFME). Furthermore, the Board finds that at and between the strategic and operational levels, this chain of command is supported by a robust communications infrastructure. The Board also finds that the communications infrastructure between the operational and tactical levels, and within TFME, consists of commercially available products and networks.

80. Analysis. This finding is supported by the analysis of the following facts:

- a. Structure at the national level. The chain of command at the national level is supported by and comprised of a structure based on commanders. At the strategic level, this structure is built around the CDS, who is supported by the SJS.¹²⁵ At the operational level, this structure is built around the Commander of CEFCOM, who is supported by a full complement of staff based on the continental staff system (J-Staff). Command and control at the national level is exercised through these two structures where the CDS retains Full Command of TFME and Operational Command is delegated to Commander CEFCOM, who in turn delegates this to Commander TFME and Operational Control to Chief of Staff UNTSO;¹²⁶
- b. Process at the national level.

¹²⁵ See Annex BH – Testimony from SJS Director General Plans, Brigadier-General A. Viens, page 12

¹²⁶ See Annex BI – Testimony from CEFCOM Chief of Staff Operations, Brigadier-General A. Deschamps and Annex BJ – CEFCOM Commander's Directive, TFME, paragraphs 15 and 17

¹²⁷ See Annex BH – Testimony from SJS Director General Plans, Brigadier-General A. Viens, page 12

¹²⁸ See Annex BH – Testimony from SJS Director General Plans, Brigadier-General A. Viens, page 15 and 22

¹²⁹ Annex AD – Testimony from CEFCOM J3, Colonel S. Noonan, page 18

c. Communications infrastructure

d. Reports and returns at the national level.

¹³⁰ Annex BK – Testimony from CEFCOM J3 - Regional Operations 3, Commander **H. Henderson**, pages 20-21

¹³¹ Annex BL – Testimony from Chief Defence Intelligence (CDI) Director Intelligence Operations, Colonel **N. Thompson**, pages 6-7

¹³² See Annex AD – Testimony from CEFCOM J3, Colonel **S. Noonan**, page 26

¹³³ See Annex AD – Testimony from CEFCOM J3, Colonel **S. Noonan**, page 33

¹³⁴ See Annex BM – Testimony from CEFCOM J3 - Regional Operations 3-5, Captain **R. Washburn**, pages 29-30

¹³⁵ See Annex BM – Testimony from CEFCOM J3 - Regional Operations 3-5, Captain **R. Washburn**, page 23 and Annex P – Testimony from Commander TFME, Major **S. Boissonneault**, pages 25-26

¹³⁶ See Annex BM – Testimony from CEFCOM J3 - Regional Operations 3-5, Captain **R. Washburn**, page 16 and Annex P – Testimony from Commander TFME, Major **S. Boissonneault**, page 27

¹³⁷ See Annex BN – CEFCOM Daily Executive Summaries, and Annex BO – CEFCOM Weekly Operations Briefs

¹³⁸ See Annex BM – Testimony from CEFCOM J3 - Regional Operations 3-5, Captain **R. Washburn**, page 16

- e. Structure at the theatre level. Command and control at the theatre level is exercised through Commander TFME.¹⁴⁰ **Major S. Boissonneault** was Commander of TFME at the time of the incident and was at the same time an UNMO in Observer Group Golan – Damascus in the Syrian Arab Republic (Deputy Chief OGG-D).¹⁴¹ Under previous circumstances, the Task Force Commander had been of the Lieutenant-Colonel rank, however based on the fact that Canada would not have a Lieutenant-Colonel posted to UNTSO, **Major S. Boissonneault** was selected as Commander TFME in an abbreviated manner, and the responsible Force Generator was not consulted.¹⁴² Following selection, he was issued a Commander CEFCOM Directive, which was in essence his Terms of Reference.¹⁴³ Commander TFME is responsible for the other Canadian UNMOs in UNTSO and at the time of the incident there were seven. The structure of TFME is diffuse in nature as, contingent upon assignment which is controlled by UNTSO, the Canadian UNMOs can be spread across all of the UNTSO Duty Stations;¹⁴⁴
- f. Process at the theatre level. Resulting from the diffuse nature of the command structure at theatre level and the command and control relationship with the UN (i.e. Operational Control), processes for the exercise of National command and control are limited. There are no formal processes in place to provide for the exercise of command and control, and there is a reliance upon informal mechanisms and communications to maintain situational awareness and to pass on information. Information is passed on an “as required” basis, and is primarily related to administrative issues.¹⁴⁵ There is provision for the convening of a “National Meeting” on a semi-annual basis;¹⁴⁶
- g. Communications infrastructure at the theatre level. TFME personnel are provided with a cellular phone upon entry into theatre. While the Crown pays for the phone and the initial connection cost to the indigenous network, the costs associated with maintaining this service are borne by the member.¹⁴⁷ Cellular phone communication is based on national

¹³⁹ See Annex BM – Testimony from CEFCOM J3 - Regional Operations 3-5, **Captain R. Washburn**, page 4

¹⁴⁰ See Annex BJ – CEFCOM Commander’s Directive, TFME

¹⁴¹ See Annex P – Testimony from Commander TFME, **Major S. Boissonneault**, pages 2-3

¹⁴² See Annex BM – Testimony from CEFCOM J3 - Regional Operations 3-5, **Captain R. Washburn**, pages 13-14

¹⁴³ See Annex BJ – CEFCOM Commander’s Directive, TFME

¹⁴⁴ See Annex P – Testimony from Commander TFME, **Major S. Boissonneault**, pages 14-15

¹⁴⁵ See Annex P – Testimony from Commander TFME, **Major S. Boissonneault**, pages 32-34

¹⁴⁶ See Annex P – Testimony from Commander TFME, **Major S. Boissonneault**, pages 43-44

¹⁴⁷ See Annex BP – TFME Joining Instructions/OP JADE – CC UNTSO, paragraph 18

networks, and in the Middle East, these networks are not compatible.

- h. Reports and returns at the theatre level. There are no mandated reports or returns from Task Force personnel to Commander TFME. Task Force members are expected to report to Commander TFME on an “as required” basis for significant issues.¹⁵⁰

81. Finding – The details of the UN command, control and communications of the deceased’s mission at both the international and theatre level. The Board finds that, regarding UNIFIL, there is a clear chain of command within the UN system with the Secretary General at one end, and the Force Commander at the other. The Board also finds that, regarding UNTSO, there is a clear chain of command within the UN system with the Secretary General at one end, and the Chief of Staff UNTSO at the other. Furthermore, the Board finds that regarding OGL, there is a clear chain of command with Operational Control assigned to Force Commander UNIFIL. Despite this determination, the Board also finds that the Chief of Staff UNTSO remains engaged in the tactical level decision making that affects OGL. The Board finds that the chains of command within the Mission Area are supported by a robust communications infrastructure.

82. Analysis. It is important to note that the Board was hampered in its ability to assemble evidence for the facts related to this finding. Under ideal circumstances, the Board would have desired additional evidence; however, this was not possible given the decision of DPKO to restrict access to personnel and documentation. The Board has endeavored to collect evidence from other sources for its deliberations, including open sources, testimony from Canadians who have worked closely with the UN, and the UN BOI report itself.¹⁵¹ Regardless of these impediments, this finding is supported by the analysis of the following facts:

- a. Structure at the international level. At the international level the UN chain of command consists of the Secretary General, empowered by the Security Council, and supported by the Secretariat. The Secretariat is composed of a series of Departments, and salient to this discussion is the Department of

¹⁴⁸ See Annex BP – TFME Joining Instructions/OP JADE – CC UNTSO, paragraph 25

¹⁴⁹ See Annex P – Testimony from Commander TFME, Major S. Boissonneault, pages 28-29, and Annex CA – Testimony from CEFCEM EA Deputy Commander, Major D. Lay, pages 2-5

¹⁵⁰ See Annex P – Testimony from Commander TFME, Major S. Boissonneault, pages 33-35

¹⁵¹ See Statements by the Board, paragraph 18

Peacekeeping Operations (DPKO). DPKO is the focal point for the coordination of efforts at the international level as they relate to peacekeeping operations. While there is no "command" responsibility vested in DPKO, as witnessed by several of the communications during the crisis, there is a degree of responsibility for "control" that is exercised by several of the key appointments in DPKO.¹⁵² In analogous Canadian terminology, the UN Headquarters and DPKO represent the strategic level, and the Mission Headquarters represents both the operational and tactical levels;

- b. DPKO is headed by an Under-Secretary General (USG) for Peacekeeping Operations, [REDACTED], and has two "Offices" each headed by an Assistant-Secretary General (ASG) for Peacekeeping Operations: Office of Operations, [REDACTED]; and, Office of Mission Support, [REDACTED].

Within the Office of Operations, there are several sub-components. The two that are pertinent to this discussion are the Situation Centre (focal point for communications from and to the various Mission Areas) and the Asia and Middle East Division with [REDACTED] as the Director (office responsible for coordination with the Missions in the region). Additionally, DPKO has two "Divisions", the Military Division and the Police Division. The Military Division is headed by the Military Advisor, [REDACTED].¹⁵³ At the time of the incident, both the USG and ASG for Office of Operations were absent, and [REDACTED] was in charge of DPKO;¹⁵⁴

- c. Process at the international level. During the crisis, regular meetings were held in UN Headquarters regarding the situation in the Middle East.¹⁵⁵ The Situation Centre acts as the focal point for communications to and from the Mission Area, however, there were activities conducted that the Situation Centre was not aware of.¹⁵⁶ During the period leading up to and after the incident, meetings were held with representatives of the Troop Contributing Countries (TCCs) in an effort to keep them apprised of the developing situation. It is important to note that these TCC meetings did not start until 18 July 2006.¹⁵⁷ The Board was unable to determine if there are clear and mandated processes in place at the international level to facilitate the exercise of command and control. Specifically, the Board was not made privy to what extent regular meetings such as "morning prayers", "action teams", etc, are part of the system at UN Headquarters;

¹⁵² Annex BQ – Command and Control of Military Components in UN Peacekeeping Operations, DPKO October 2001, paragraphs 1 and 14

¹⁵³ See Annex BR – DPKO Organization and Responsibilities

¹⁵⁴ Annex AL – Notes of Meeting between UN BOI and Assistant Secretary [REDACTED], 09 August 2006

¹⁵⁵ See Annex AA – Lebanon Crisis Coordination Meetings

¹⁵⁶ Annex BS – DPKO Situation Centre Submission to BOI on Khiam Incident, paragraph 3

¹⁵⁷ Annex BT – Emails from PRMNY – TCC Meetings

- d. Communications infrastructure at the international level. The Board was unable to determine with any certainty the extent and nature of the communications infrastructure at the international level. Having said this, it is clear that there is a reliance on commercial systems which include landline, cellular phone and Internet.
- e. Reports and returns at the international level. The Board was unable to determine if there is a system of mandated reports and returns internal to the UN Headquarters. The Board was however able to determine that there is a regimented system of reporting to the Security Council in the form of routine mission updates, and from the Security Council in the form of resolutions.¹⁶¹
- f. Structure at the Mission level – UNTSO. The command and control structure at the Mission level was consistent with expectations of a “standard” military formation. Specifically, regarding UNTSO, there is a Mission Headquarters located in Jerusalem. This Headquarters consists of military and civilian components who coordinate and support the activities of the UNMOs.¹⁶³ UNTSO is commanded by the Chief of Staff UNTSO, and the principle staff functions within the Headquarters are staffed at the Lieutenant-Colonel level. All other military staff positions are filled by UNMOs who range in rank from Captain to Major and who can be from any one of the 22 TCCs. UNTSO has several Duty Stations:
- i. Observer Group Golan with a Station in Damascus, a Station in Tiberius, and a command/liaison group in UNDOF Headquarters in Camp Fouar, Syria;

¹⁵⁸ For an example see Annex AL - Notes of Meeting between UN BOI and
09 August 2006

¹⁵⁹ Annex V – UN Code Cables

¹⁶⁰ Annex AA – Lebanon Crisis Coordination Meetings

¹⁶¹ Annex R – Report of the Secretary General on the United Nations Interim Force in Lebanon

¹⁶² See Annex BU – Briefing Note for – Security Council/TCC Meeting on UNIFIL and

Annex BC - Notes of Meeting between UN BOI and 29 August 2006

¹⁶³ See Annex BE – UNTSO Background Documents

- ii. Observer Group Egypt, with a small detachment of UNMOs in the Sinai Peninsula;
 - iii. Liaison Office Beirut, with a small liaison element located in Beirut; and
 - iv. Observer Group Lebanon, with its Duty Station co-located with UNIFIL in Naqoura, Lebanon.¹⁶⁴
- g. The bulk of UNTSO personnel are attached to either Observer Group Golan (supporting UNDOF) or to OGL (supporting UNIFIL). In both of these cases, UNMOs operate under the Operational Authority of Chief of Staff UNTSO¹⁶⁵, who then delegates Operational Control to the respective Force Commander.¹⁶⁶ The Board is aware that Letters of Understanding have been signed by the Chief of Staff UNTSO and each of the Force Commanders; however, copies were not available to the Board. The Board's understanding is that it is these Letters of Understanding that formalize the command and control relationships between the respective Missions¹⁶⁷;
- h. Structure at the Mission level – UNIFIL. UNIFIL is an armed force that consists of a Headquarters element, two infantry battalions (Ghana and India), an engineering battalion (China) and other support elements (helicopters, medical, and maintenance). UNIFIL is commanded by a Force Commander, and its headquarters is staffed by personnel from the various TCCs. The staff principals in the Headquarters are at either the Colonel or Lieutenant-Colonel rank, and divisions exist in a similar fashion to that of the continental staff system (G-Staff). There is also a civilian component to the headquarters which is primarily focused on the administration and logistics issues associated with the Mission. At the time of the incident, UNIFIL strength was approximately 2000;¹⁶⁸
- i. Battalion Commanders report directly to the Force Commander and command and control of operations in UNIFIL is exercised in a manner consistent with Canadian practice. OGL is considered to be a "unit" of UNIFIL, and as such, Chief OGL is afforded the same status as the Battalion Commanders.¹⁶⁹ OGL staff members are closely integrated with their UNIFIL counterparts and there is close interaction between the two command centres situated in adjacent locations within the same

¹⁶⁴ See Annex BG – Command Directive for the Chief of Staff UNTSO, paragraph 12

¹⁶⁵ See Annex BV – Chief of Staff UNTSO Email to UN Headquarters

¹⁶⁶ See Annex BG – Command Directive for the Chief of Staff UNTSO, paragraph 6

¹⁶⁷ See Annex BG – Command Directive for the Chief of Staff UNTSO, paragraph 14, footnote 2

¹⁶⁸ See Annex R – Report of the Secretary General on the United Nations Interim Force in Lebanon and Annex L – Testimony from Major B. Pond, pages 54-56

¹⁶⁹ See Annex L – Testimony from Major B. Pond, pages 53-54

building.¹⁷⁰ Force Commander UNIFIL exercises Operational Control over OGL;

- j. Structure at the Mission level – OGL. OGL consists of four teams (Zulu, Victor, X-Ray, and Sierra) and a Headquarters element. The teams vary in strength with the average being approximately nine UNMOs.¹⁷¹ In general terms, each of the Team Patrol Bases is manned with four to five UNMOs.¹⁷² Chief OGL is responsible for all OGL operations, and is assisted in this endeavour by a military and civilian staff. At the time of the incident, _____ was Chief OGL. The military staff is manned by UNMOs and includes a Deputy Chief, an Operations Officer, a Military Information Officer, a Military Administration Officer, a Training Officer, and a Liaison Officer;¹⁷³
- k. It is important to note that from a structural perspective, regardless of whether OGL is under Operational Control of Force Commander UNIFIL, there are indications that there is routine “consultation” with Chief of Staff UNTSO on decisions that affect OGL operations. A specific example of this type of consultation was that which occurred when there was consideration to evacuate Patrol Bases Hin and Mar.¹⁷⁴ While the Board was unable to determine the specific nature and the nuances of how a dual-accountability system functions, the existence of such a system did however raise questions regarding the efficiency and effectiveness of these arrangements;
- l. Process at the Mission level – UNTSO. The Board was unable to determine with any certainty the processes employed by UNTSO to exercise command and control of the UNMOs. There are indications that there is constant communication between UNTSO Headquarters and the Duty Stations in the form of one-on-one contact and communications through the respective operations centres.¹⁷⁵ The Board was unable to determine if there were any formal process in UNTSO such as “morning prayers”, “action teams”, etc. Regarding TCC National Seniors, there is little consultation with or recognition of the responsibilities of these individuals;¹⁷⁶
- m. Process at the Mission level – UNIFIL. The Board was unable to determine with any certainty the processes employed by UNIFIL to

¹⁷⁰ See Annex Z – Statement of UNIFIL Chief Operations Officer. paragraph 2, and Annex M – UN BOI Report (Less Annexes), page 6

¹⁷¹ Annex S – OGL Duty Rosters, Annex M – UN BOI Report (Less Annexes), page 4-5 and Annex L – Testimony from **Major B. Pond**, pages 56-58

¹⁷² Annex L – Testimony from **Major B. Pond**, page 12

¹⁷³ Annex S – OGL Duty Rosters

¹⁷⁴ See Annex BW – Email exchange between Force Commander UNIFIL and Chief of Staff UNTSO

¹⁷⁵ See Annex AI – UNTSO Duty Officer Log

¹⁷⁶ See Annex P – Testimony from Commander TFME, **Major S. Boissonneault**, pages 12-14 and 39-41

exercise command and control in the Mission Area. Statements and documents included with the UN BOI report allude to morning and evening meetings, however beyond this, there is no clarity;

- n. Process at the Mission level – OGL. The Board was unable to determine with any certainty the processes employed by OGL to exercise command and control of the teams at the time of the incident; however, testimony from a CF veteran of OP JADE/OGL indicates that, at the time of his service, there was a process in place to manage the relief of UNMOs and that it consisted of operations and handover briefings conducted every Tuesday and Friday. It was also at this time that the Chief and OGL Staff would pass on direction and orders to the teams.¹⁷⁷ Furthermore there is indication that there was a certain amount of coordination of tasks and patrols and that there was a requirement for teams to submit patrol plans on a weekly basis;¹⁷⁸
- o. Communications infrastructure at the Mission level. The primary means of communication in the UNIFIL AO is the VHF radio which is based on a “Motorola” platform. Additional infrastructure for communications includes HF Radio, satellite phones, landline, internet and cellular phone. Specifically regarding OGL, each Patrol Base is equipped with each of these means. Phone and internet communications are maintained through microwave links located on the Patrol Bases, but on the day of the incident, this link was partly inoperable. Patrol Base bunkers were also equipped with a similar suite of communications, and at the time of the incident, the VHF radio was working in the Patrol Base Khiam bunker.¹⁷⁹ Cellular phones however were not working¹⁸⁰, more than likely due to the depth and structure of the bunker;¹⁸¹
- p. Reports and returns at the Mission level. Reporting in the Mission Area is primarily based on “Daily Situation Reports”. Both UNIFIL and UNTSO produce daily reports which are in turn distributed to UN Headquarters and to neighbouring Missions. The content of these daily reports is similar in nature and includes a summary of the operational activity, administrative details and a commander’s assessment.¹⁸² As part of this reporting system, OGL produces a daily report which is received by both UNIFIL and UNTSO.¹⁸³

¹⁷⁷ See Annex L – Testimony from **Major B. Pond**, pages 60-63

¹⁷⁸ See Annex L – Testimony from **Major B. Pond**, pages 17, and 22-23

¹⁷⁹ See Annex BX – Documents Related to Communications Infrastructure for OGL

¹⁸⁰ See Annex AG – Statement of Chief OGL,

¹⁸¹ See Annex L – Testimony from **Major B. Pond**, pages 34-36

¹⁸² See Annex AE – UNIFIL Daily Situation Reports

¹⁸³ See Annex L – Testimony from **Major B. Pond**, page 68

83. Finding – The relevant orders and direction that the deceased was given by both the CF and the UN chains of command prior to and at the time of the incident. The Board finds that the CF chain of command did not issue any relevant orders or direction to Major Hess-Von Kruedener either prior to or at the time of the incident. The Board also finds that during the period prior to and at the time of the incident, while not transmitted directly to the deceased, a series of orders and direction were issued by the UN chain of command that directly affected Major Hess-Von Kruedener.

84. Analysis – Canadian chain of command. Upon questioning of the relevant staff at the strategic and operational levels there are no indications that any relevant orders or directions were issued to Major Hess-Von Kruedener either directly or through Commander TFME.¹⁸⁴ The focus of efforts at the strategic and operational levels was on the assurance of safety of Major Hess-Von Kruedener, and there was a recognition that, given the fact that he was working under Operational Control of UNTSO, there was little in terms of practical direction that could be issued to him that would have affected the unfolding tactical scenario. Specifically, at the strategic and operational levels, there was overt recognition that tactical level decisions were best left to the UN chain of command in the Mission Area.¹⁸⁵ As such, all communication from CEFCON to Commander TFME was focussed on the issue of Major Hess-Von Kruedener's personal security and safety. At the tactical level, Commander TFME had, at several points, email contact with Major Hess-Von Kruedener, the last exchange occurring on 20 July 2006. Having said this, Commander TFME was located in a different Duty Station (Damascus) and did not have precise situational awareness of the operational aspects in OGL, and this, when combined with the issue of Operational Control mentioned above, limited his ability to make meaningful decisions regarding tactical employment, and thus explains why no relevant orders or direction were issued.¹⁸⁶

85. Analysis – UN chain of command. Considering the DPKO decision to limit access to UN personnel and documentation, the Board was unable to collect sufficient evidence regarding the facts associated with this finding. The Board's analysis relies primarily on the information contained within the UN BOI report and accompanying annexes, and as such, while still grounded in evidence, the fidelity of the following information is less than could have been achieved if full access to UN personnel and documentation had been granted. Corresponding to the chain of command, there are four possible sources of orders or direction to Major Hess-Von Kruedener: UNTSO, UNIFIL, OGL, and the Team Leader. The finding regarding the UN chain of command is supported by the analysis of the following facts:

- a. Orders by UNTSO. Despite having delegated Operational Control to Force Commander UNIFIL, Chief of Staff UNTSO remained engaged in

¹⁸⁴ See Annex P – Testimony from Commander TFME, Major S. Boissonneault, pages 61-62, Annex AD – Testimony from Colonel S. Noonan, page 38, Annex BH – Testimony from SJS Director General Plans, Brigadier-General A. Viens, pages 33-34, and Annex BM – Testimony from CEFCON J3 - Regional Operations 3-5, Captain R. Washburn, pages 40-41

¹⁸⁵ Annex AD – Testimony from Colonel S. Noonan, pages 36-37, and Annex BH – Testimony from SJS Director General Plans, Brigadier-General A. Viens, pages 8-9

¹⁸⁶ See Annex P – Testimony from Commander TFME, Major S. Boissonneault, pages 4-9, 15, and 20-21

the decision making process regarding actions taken by or that affected OGL. For example, the ultimate decision on 25 July 2006 to evacuate Patrol Base Khiam was made in collaboration with Chief of Staff UNTSO.¹⁸⁷ Relevant to this finding is, in the Board's judgment, the implicit and continual assessment of maintaining the UNMO presence on the Patrol Bases during the crisis. While not an overt order or direction per se, the Board nonetheless felt it important to address. The decision to maintain an UNMO presence on the Patrol Bases was founded on the assessment shared by Chief of Staff UNTSO, Force Commander UNIFIL, and UN Headquarters that:

- i. There was an absolute requirement to maintain a UN presence in the region;¹⁸⁸
 - ii. Given the nature of the conflict, there were no locations more or less dangerous than others;¹⁸⁹
 - iii. The UNMOs were well protected within the Patrol Bases;¹⁹⁰
 - iv. There were reassurances that there would be no direct engagements from the IDF;¹⁹¹ and
 - v. There was an established liaison network between the UN and IDF.¹⁹²
- b. Orders by UNIFIL. To the extent desired, the Board was unable to determine specific decisions that directly impacted upon Major Hess-Von Kruedener. The Board is however aware of a decision to restrict operations and to limit movement within the AO.¹⁹³ The ultimate effect on Team Sierra, and consequently, Major Hess-Von Kruedener, was to limit their operations to static observation from the Patrol Base. Additionally, Force Commander UNIFIL directed the evacuation of Patrol Base Khiam. This decision was made at approximately 1900hrs, and was to take place at 0700hrs on 26 July 2006;¹⁹⁴
- c. Orders by OGL. The same conditions as mentioned above apply to this level of decision making. Apart from the decisions above, the Board notes that a relief of Patrol Base Khiam was conducted on 17 July 2006, and

¹⁸⁷ See Annex AI – UNTSO Duty Officer Log

¹⁸⁸ See Annex W – Notes of Meeting between UN BOI and Chief of Staff UNTSO

¹⁸⁹ See Annex AH – Notes of Meeting between UN BOI and Force Commander UNIFIL

¹⁹⁰ See Annex AH – Notes of Meeting between UN BOI and Force Commander UNIFIL

¹⁹¹ See Annex BC - Notes of Meeting between UN BOI and 29 August 2006

¹⁹² See Annex M – UN BOI Report (Less Annexes), pages 4 and 5

¹⁹³ See Annex V – UN Code Cables, Appendix 6

¹⁹⁴ See Annex AH – Notes of Meeting between UN BOI and Force Commander UNIFIL., paragraph 4, and Annex AG -- Statement of Chief OGL., paragraph 6

deduces that relevant orders and direction would have been issued to conduct this task.¹⁹⁵ Additionally, OGL Headquarters issued direction in the form of a "Frag O" regarding radio checks.¹⁹⁶ The Board was unable to determine if other relevant orders or direction were issued to Major Hess-Von Kruedener by OGL;

- d. The Board was however made aware of Major Hess-Von Kruedener's personal opinion regarding the functioning of OGL Headquarters. Specifically in email correspondence between himself and Commander TFME, Major Hess-Von Kruedener indicated that he felt that there was a "command vacuum" at OGL.¹⁹⁷ While this issue was considered, the Board was not presented with any evidence to suggest that additional orders or direction were required. There was regular communication between the OGL Headquarters and the Patrol Base as witnessed by the OGL Current Ops Log¹⁹⁸; and
- e. Orders by Team Leader. The same conditions as mentioned in subparagraph b. apply to this level of decision making. The Board was unable to determine, apart from the decisions above, whether other relevant orders or directive were issued to Major Hess-Von Kruedener by the Team Leader.

86. Finding – The intelligence and information available to the CF chain of command relating to conditions at the deceased's location prior to and at the time of the incident. The Board finds that there was limited intelligence and information regarding the conditions at Major Hess-Von Kruedener's location prior to and at the time of the incident. The Board further finds that, as a result of efforts directed towards OP LION and the CF had intelligence and information related to the conditions in Lebanon, however this intelligence and information did not focus specifically on the UNIFIL AO.

87. Analysis. This finding is supported by the analysis of the following facts:

- a. Available to Strategic level. The portion of the system contained a threat assessment for Lebanon, which did not specifically address Major Hess-Von Kruedener's location;¹⁹⁹
- b. Available to Operational level. As with the strategic level, the operational level was privy to the Lebanon threat assessment.²⁰⁰ Additionally, the Daily Situation Reports produced by Commander TFME did contain some

¹⁹⁵ See Annex Y – Environmental/Context Statement 12-25 July 2006, paragraph 5

¹⁹⁶ See Annex BY – OGL Frag O 02/Just Reward/06, 20 July 2006

¹⁹⁷ See Annex CM – Consolidated Package of Email from Major Hess-Von Kruedener

¹⁹⁸ See Annex AF – OGL Current Operations Activity Log 242000 to 252300 July 2006

¹⁹⁹ See Exhibit 6 – DND Security Threat Assessment, Lebanon: Threat to CF Personnel, and Annex BL – Testimony from CDI Director Intelligence Operations, Colonel N. Thompson, pages 3 and 6-7

²⁰⁰ See Annex BZ – Testimony from CEFCON J2, Lieutenant-Colonel R. Smallwood, pages 9-12

information regarding the UNIFIL AO, and at times, details regarding operational activity in the vicinity of Patrol Base Khiam.²⁰¹ These reports were sent to the Desk Officer and the Command Centre in CEFCOM. The Desk Officer was responsible for highlighting relevant details through his chain of command.²⁰² Due to an initial misunderstanding in the CEFCOM Command Centre, these daily reports were not immediately posted to the "Command View" on so it is unclear who else at the operational level had access to this information;²⁰³ and

- c. Available to Tactical level. At the tactical level, Commander TFME had access to the Daily Situation Report from UNTSO. This report typically contained information related to the conditions in the vicinity of Patrol Base Khiam, in so far as it would offer a summary of events and recount the incidents such as "Firing Close" and "Firing In". Additionally, Commander TFME maintained contact with Major Hess-Von Kruedener via email until 20 July 2006 and some information regarding operational activity was passed.²⁰⁴

88. Finding – The intelligence and information available to the UN chain of command relating to conditions at the deceased's location prior to and at the time of the incident. The Board finds that the UN chain of command in the Mission Area had near-real time and precise information regarding the conditions at Major Hess-Von Kruedener's location at the time of the incident. The Board was unable to render a finding on the timeliness of the intelligence and information available to the UN chain of command in the Mission Area prior to the incident. However there are no indications that the practices regarding the passage of information that existed prior to the incident were any different than those at the time of the incident. The Board was unable to make a finding regarding the intelligence and information available to the UN Headquarters prior to or at the time of the incident.

89. Analysis. This finding is supported by the analysis of the following facts:

- a. Available to Secretary General. While it is known that the Secretary General and the Security Council were apprised of the conditions within the Mission Area during the course of the crisis as a result of the six month mandate renewal report, the Board was unable to determine if the Secretary General had information specifically regarding the deceased's location until such time as the incident occurred;²⁰⁵

²⁰¹ See Annex U – OP JADE Situation Reports

²⁰² See Annex BM – Testimony from CEFCOM J3 - Regional Operations 3-5, **Captain R. Washburn**, pages 16-17

²⁰³ See Annex BM – Testimony from CEFCOM J3 - Regional Operations 3-5, **Captain R. Washburn**, pages 29-30

²⁰⁴ See Annex P – Testimony from Commander TFME, **Major S. Boissonneault**, pages 4-9, and 63-67

²⁰⁵ See Annex R – Report of the Secretary General on the United Nations Interim Force in Lebanon

- b. Available to DPKO. During the course of the crisis, there was regular contact between the Mission Area and DPKO. This contact was in the form of communication between the Force Commander and the USG/ASG and the Military Advisor, however, the Board was unable to determine the exact nature and detail contained within these contacts.²⁰⁶ In a more formal manner both UNTSO and UNIFIL produced Daily Situation Reports that were sent to DPKO. Where and when applicable, specific information related to Patrol Base Khiam was written in these reports, including incidents of "Firing Close" and "Firing In";²⁰⁷
- c. Available to UNIFIL. Force Commander UNIFIL had access to the OGL Daily Situation Report. The Board did not have access to any of this reporting, and therefore, cannot assess the nature of the information contained within these reports. The Board can, however, state that in the period immediately preceding the incident, there was constant communication between Chief OGL and Force Commander UNIFIL and between the various staff officers. More specifically, the operations centres for OGL and UNIFIL were adjacent to each other, and as incidents would occur at Patrol Base Khiam, information would be passed directly from the OGL operations centre to the UNIFIL operations centre;²⁰⁸
- d. Available to UNTSO. As the OGL Daily Situation Reports were passed in parallel to both UNIFIL and UNTSO, operational information available to the Chief of Staff UNTSO regarding Major Hess-Von Kruedener's location was similar to that of Force Commander UNIFIL.²⁰⁹ Regarding the passage of routine information on a minute-by-minute basis between the OGL operations centre and the UNTSO operations centre,²¹⁰ the Board was unable to determine if there was any degradation of quality or timeliness as a result of either the physical distance between the two centres or the inherent challenges of a dual reporting system (OGL reporting to both UNIFIL and UNTSO); and
- e. Available to OGL. Despite some challenges with equipment, communications were maintained with Patrol Base Khiam throughout the course of the incident.²¹¹ This provided for a near-real time passage of information to and from the Patrol Base. Information was routinely passed to the OGL operations centre on the nature of the operational activity and incidents in the vicinity of Patrol Base Khiam. This

²⁰⁶ See Annex V – UN Code Cables

²⁰⁷ Annex AE – UNIFIL Daily Situation Reports, and Annex P – Testimony from Commander TFME, Major S. Boissonneault, pages 33, and 63-67

²⁰⁸ See Annex Z – Statement of UNIFIL Chief Operations Officer, paragraph 2, and Annex M – UN BOI Report (Less Annexes), page 6, and Annex AG – Statement of Chief OGL,

²⁰⁹ See Annex P – Testimony from Commander TFME, Major S. Boissonneault, page 68

²¹⁰ See Annex AI – UNTSO Duty Officer Log

²¹¹ See Annex BX – Documents Related to Communications Infrastructure for OGL

information was recorded in a communications log maintained at the OGL operations centre.²¹² While this information was passed primarily on the VHF radio, informal contact was maintained via cellular phone.²¹³

90. Finding – UN procedures to manage and mitigate risk to the UNTSO personnel in the region and at the deceased's location prior to and at the time of the incident and the adequacy of those procedures. The Board finds that the UN procedures to manage and mitigate risk to UNTSO personnel in the region and at the deceased's location were explicit with regards to civilian personnel and implicit with regards to military personnel within the established processes for the exercise of command and control. The Board also finds that these procedures with respect to military personnel were adequate.

91. Analysis. In order to assist in the rendering of this finding, the Board sought to develop a framework for analysis. Influenced heavily by the CF Joint Doctrine Manual – Risk Management for CF Operations²¹⁴, the Board examined the precepts for risk management and distilled them into three discrete requirements: identification of risk; mitigation of risk; and, acceptance of risk. Furthermore, the Board examined each of these requirements from the perspective of the procedures in place and evidence associated with the results of implementing those procedures. This framework was used for the examination of both the UN and the CF.

92. During the Board's deliberations, a conscious effort was made to examine the issue in terms of the chain of command's ability to balance the requirements associated with risk management and the accomplishment of the mission. The Board was also cognisant of the requirement to not focus on risk management as a discrete aspect of command; rather, the Board's view was that the principles associated with risk management are intended to act as a guide, and while the commander executes the mission, it is through the exercise of "command" that they are manifested.

93. The UN Department of Safety and Security (DSS) is responsible for issues related to risk management. While unable to determine the precise extent of these responsibilities, it is evident that they are focused more on the civilian staff of the UN Missions.²¹⁵ DSS has an extensive process for the management of risk in Mission Areas which is outlined in the UN Field Security Handbook. DSS and the corresponding Mission Area body, the Security Management Team, effectuated these processes, and at several points during the crisis Security "Phase" levels were raised.²¹⁶ This process was followed to the point that Security Phase IV was declared which resulted in the total evacuation of non-Mission essential personnel.²¹⁷ While these processes do ultimately have an effect on the military component of the mission, procedures with reference to risk management for military personnel are primarily encompassed within the day-to-day

²¹² See Annex AF – OGL Current Operations Activity Log 242000 to 252300 July 2006

²¹³ Annex AG – Statement of Chief OGL paragraphs 1 and 5

²¹⁴ B-GJ-005-502/FP-000, Joint Doctrine Manual, Risk Management for CF Operations, 2002

²¹⁵ See Annex CB – Testimony from ADM (Pol) Director of Peacekeeping Policy, **Colonel M. Hanrahan** pages 37-41

²¹⁶ See Annex AB – United Nations Field Security Handbook, January 2006

²¹⁷ See Annex AA – Lebanon Crisis Coordination Meetings

prosecution of operations. Accordingly, the finding acknowledges this issue and is supported by the analysis of the following facts:

- a. Procedures to identify risk. In the Mission Area, OGL and UNIFIL Headquarters were in possession of near-real time information pertaining to the conditions in the AO and more specifically at Patrol Base Khiam. While the Board was unable to determine the exact nature of the processes employed for the exercise of command and control within the Mission Area, contained within the UN BOI report and its accompanying annexes are indications that there was a degree of process applied to the consideration of risk. The process was very explicit in the management of risk for civilian personnel. Force Commander UNIFIL is the Head of Mission in South Lebanon, and as such, he chaired the Security Management Team meetings that dealt with the security of civilian personnel.²¹⁸ The concomitant result would be a heightened awareness within the chain of command which would facilitate the implicit decision making process associated with the military component;
- b. Risks identified. While the Board was unable to develop a complete appreciation for all risks identified by the UN chain of command, it was however able to isolate several specific risks to UN installations and personnel. Early decisions regarding the maintenance of a UN presence identified a specific risk as a result of collateral damage from combat operations.²¹⁹ Additionally, following the establishment of the "Special Security Zone", a risk of direct engagement by the IDF was identified.²²⁰ Finally, a risk of being taken hostage was identified for the UNMOs on the Patrol Bases;²²¹
- c. Procedures to mitigate risk. The Board was unable to determine the exact nature of the procedures employed to mitigate risk, however, the same conditions apply as discussed in sub-paragraph a. While not strictly limited to risk management, there were consultations between Force Commander UNIFIL and Chief of Staff UNTSO that included discussions related to risk;²²²
- d. Risks mitigated. In general terms, OGL and UNIFIL had several procedures in place prior to the incident that are considered to mitigate risk. One such procedure was the system that is known as "Shelter Warnings". In this system an order would be passed on the VHF Operations Net to take shelter in the bunker. This warning could be issued as a result of a variety of actions, however, typically it would be issued as

²¹⁸ See Annex CC – Command Directive for the Force Commander UNIFIL

²¹⁹ See Annex AH – Notes of Meeting between UN BOI and Force Commander UNIFIL, paragraph 11

²²⁰ Annex V – UN Code Cables, Appendix 3

²²¹ See Annex CD – Statement of DPKO Military Advisor, paragraph e

²²² See Annex BW – Email exchange between Force Commander UNIFIL and Chief of Staff UNTSO

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the result of a warning received from the IDF that there was impending operational activity in the area.²²³ Additionally, issues of risk are addressed in the OGL Standard Operating Procedures in a separate chapter dedicated to "Security";²²⁴

- e. From the physical security perspective, OGL Patrol Bases were provided with bunkers that were engineered to withstand impacts from 155mm artillery, a stipulation that corresponds to the assessed level of threat (collateral damage potentially from stray rounds);²²⁵
- f. A further general risk mitigation strategy was the manning and employment of a liaison network with the IDF. Liaison was executed by both UNIFIL and OGL liaison officers directly to IDF Liaison Officers.²²⁶ Additionally, high level relationships were established and maintained between Force Commander UNIFIL and Chief of Staff UNTSO with their IDF counterparts;²²⁷
- g. Specifically regarding the period leading up to the incident, the UN chain of command made several decisions and emitted corresponding direction and orders to mitigate risk. There are several examples:
 - i. The decision to restrict operations and movement with the UNIFIL AO;²²⁸
 - ii. The coordination of UN movement with the IDF;²²⁹
 - iii. Specific protests lodged by the UN liaison network; and²³⁰
 - iv. The planned evacuation of Patrol Base Khiam;²³¹

²²³ See Annex L – Testimony from **Major B. Pond**, pages 38-39

²²⁴ See Annex CE – OGL Standard Operating Procedures, Part 5 – Security

²²⁵ See Annex W – Notes of Meeting between UN BOI and Chief of Staff UNTSO, paragraph 11 and Annex CF – Details of Patrol Base Khiam Construction

²²⁶ See Annex AK – Statement of OGL Liaison Officer, and Annex AJ – Statement of UNIFIL Senior Liaison Officer,

²²⁷ See Annex CG – Chief of Staff UNTSO Correspondence to IDF, Annex AH – Notes of Meeting between UN BOI and Force Commander UNIFIL, paragraph 5, and Annex CH – Force Commander UNIFIL Correspondence to IDF

²²⁸ See Annex V – UN Code Cables, Appendix 6

²²⁹ See Annex CG – Chief of Staff UNTSO Correspondence to IDF, Appendix 6

²³⁰ See Annex AH – Notes of Meeting between UN BOI and Force Commander UNIFIL, paragraph 5, Annex AJ – Statement of UNIFIL Senior Liaison Officer, and Annex W – Notes of Meeting between UN BOI and Chief of Staff UNTSO, Supplemental Statement

²³¹ See Annex AH – Notes of Meeting between UN BOI and Force Commander UNIFIL, paragraph 4, and Annex AG – Statement of Chief OGL, paragraph 6

- h. Procedures to accept risk. The Board was unable to determine the exact nature of the procedures employed to accept risk, however, the same conditions apply as discussed in sub-paragraph a;
- i. Risks accepted. Considering that the principle risk that was identified was the threat from collateral damage, efforts were made to determine if this risk outweighed the benefits associated with maintaining a UN presence. Ultimately, a decision was made and supported by both Chief of Staff UNTSO and Force Commander UNIFIL and the risk from collateral damage was overtly accepted.²³² This issue was clarified in a "code cable" from DPKO stating that Force Commander UNIFIL had the authority to relocate personnel from on or more UN positions, but authority to conduct a complete withdrawal of the Force rested with the Secretary General;²³³ and
- j. Adequacy. Regardless of whether the precepts of risk management are expressed explicitly or implicitly, the Board viewed the test for adequacy as one where, through the process for exercising command and control, risks were identified, appropriate risk mitigation strategies employed, and overt decisions made regarding the acceptance of risk measured against mission accomplishment. All three of these issues were addressed by the UN chain of command during the period prior to the crisis, during the crisis, and at the time of the incident.

94. Finding – CF procedures to manage and mitigate risk to the UNTSO personnel in the region and at the deceased's location prior to and at the time of the incident and the adequacy of those procedures. The Board finds that the CF procedures to manage and mitigate risk to UNTSO personnel in the region and at the deceased's location were implicit within the established processes for the exercise of command and control. The Board also finds that these procedures were adequate.

95. Analysis. The framework for analysis outlined in paragraph 86 applies equally to this finding. Moreover, the Board recognized that, given the unique nature of the command and control relationship between the CF chain of command and the UN chain of command, there was a requirement to temper expectations *vis-à-vis* Canadian decision making regarding risk. Specifically, as the Canadian chain of command was somewhat removed from the relevant information sources, conditions were such that the UN chain of command was better placed to make informed tactical level decisions regarding risk. Consequently, during the crisis, Canadian responsibilities regarding risk management were more focused on monitoring the adequacy of UN force protection measures.²³⁴ The findings above are supported by the analysis of the following facts:

²³² See Annex W – Notes of Meeting between UN BOI and Chief of Staff UNTSO, paragraph 12, and Annex AH – Notes of Meeting between UN BOI and Force Commander UNIFIL, paragraphs 3 and 11

²³³ See Annex V – UN Code Cables, Appendix 8

²³⁴ See Annex AD – Testimony from CEFCON J3, Colonel S. Noonan, pages 5-7

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- a. Procedures to identify risk. At the tactical level, apart from the application of professional judgment and access to UN information, there were no procedures in place to identify risk in TFME.²³⁵ However, the Board recognizes the challenges associated with the nature of a command and control structure that has a Commander TFME who also has responsibilities as an UNMO in a Duty Station, and TFME personnel dispersed across a variety of other Duty Stations and countries. These factors influenced the ability of Commander TFME to generate the necessary situational awareness to make decisions regarding risk;
- b. At the operational level, CEFCON employs the Operational Planning Process (OPP)²³⁶ which has risk management principles embedded within it.²³⁷ In particular, in the early stages of the OPP, the J2 staff provides a "threat assessment" which, for all intents and purposes, is the first step towards the identification of risk;²³⁸
- c. For long running and established small missions, the Board was unable to determine if there are any CEFCON procedures in place to identify risk to deployed personnel. The procedures in place at the time of the incident could be characterized as implicit, and were based primarily on the initiative of the individual Task Force Commander passing relevant information to the responsible Desk Officer, who in turn was required to use professional judgment and initiative to identify risks and raise concerns to the chain of command.²³⁹ Regardless, the Board did not determine this to be a factor in this specific case;
- d. Risks identified. As a result of the staff effort directed towards OP LION and , a threat assessment was completed for Lebanon which led to the identification of a risk to CF personnel arising from collateral effects.²⁴⁰ While there was no explicit assessment of threat conducted for OP JADE personnel, testimony indicates that there was an implicit judgment that the threat assessment for Lebanon applied equally to all CF personnel;²⁴¹
- e. Procedures to mitigate risk. The procedures for mitigating risks are, from a process perspective, the same as those for identifying risk, both at the operational and at the tactical levels;

²³⁵ See Annex P – Testimony from Commander TFME, **Major S. Boissonneault**, pages 69-70

²³⁶ B-GJ-005-5000/FP-000 Joint Doctrine Manual, CF Operational Planning Processes

²³⁷ See Annex CJ – Testimony from CEFCON Deputy Commander, **Brigadier-General D. Davies**, page 53

²³⁸ Annex BZ – Testimony from CEFCON J2, Lieutenant **Colonel R. Smallwood**, pages 19-25, and Annex BL – Testimony from CDI Director Intelligence Operations, **Colonel N. Thompson** pages 3, and 6-7

²³⁹ See Annex BM – Testimony from CEFCON J3 - Regional Operations 3-5, **Captain R. Washburn**, pages 43-46

²⁴⁰ See Exhibit 6

²⁴¹ See Annex BL – Testimony from CDI Director Intelligence Operations, **Colonel N. Thompson** pages 16-18 and Annex CI – Testimony from CDI Middle East Analyst, **Mr D. Rheault**, pages 13-16

- f. Risks mitigated. Specifically regarding UNTSO personnel in the period leading up to and at the time of the incident no risks were mitigated by the CF. This being said, there was an overt recognition that the UN chain of command was best placed to analyze the situation and to make tactical level decisions, including those related to risk;²⁴²
- g. Procedures to accept risk. The procedures for accepting risks are, from a process perspective, the same as those for identifying risk, both at the operational and at the tactical levels;
- h. Risks accepted. In general terms, the risk to CF personnel in the region was accepted as part of the decisions resulting from the planning of OP LION and Additionally, the CF chain of command demonstrated concern for the safety and security for all CF personnel in the region.²⁴³ In the specific case of Major Hess-Von Kruedener, deliberate consideration was given to the UN assessment of the situation, and there was a manifest acceptance of the decision to have the UNMOs remain on the Patrol Bases in light of the prevailing conditions;²⁴⁴ and
- i. Adequacy. Following the same logic as outlined for the finding on the adequacy of the UN procedures to manage and mitigate risk, the three elements outlined in the analysis framework were addressed by the CF chain of command during the period prior to and at the time of the incident.

96. Finding – The adequacy of the UN response to the incident. The Board finds that the UN response to the incident was adequate.

97. Analysis. The Board chose to address the adequacy of the UN response prior to the adequacy of the CF response due to the recognition that the UN chain of command had Operational Control of OP JADE personnel and had the necessary information to make decisions and the means to act upon the decisions made. The Board determined that the UN response must be analyzed first, and following this, the CF's response could then be analyzed in terms of any residual responsibilities.

98. As a point of departure for the deliberations related to this finding, the Board examined the doctrine of CF operations and equated the concept of "response" to that of "command". Following this, the Board considered the notion of command and its

²⁴² See Annex BH – Testimony from SJS Director General Plans, **Brigadier-General A. Viens**, pages 7-9, Annex AD – Testimony from Colonel S. Noonan, pages 4-7, and Annex BI – Testimony from CEFCON Chief of Staff Operations, **Brigadier-General A. Deschamps**, pages 57-58

²⁴³ See Annex BM – Testimony from CEFCON J3 - Regional Operations 3-5, **Captain R. Washburn**, pages 3-4

²⁴⁴ See Annex AD – Testimony from Colonel S. Noonan, pages 4-7

associated responsibilities. The foundation for the Board's analysis was the CF Operations manual's explanation of Authority, Responsibility and Accountability:

"Command is vested in an individual who has total responsibility. Commanders possess authority and responsibility with regards to their assigned forces, and are accountable, while in command, to their superiors and to the nation. All members of the CF, as individuals, are responsible for their actions and the direct consequences of these actions. This is a basic legal precept. Commanders have a responsibility to make decisions, issue orders, and monitor the execution of assigned tasks. ..." ²⁴⁵

99. With the view to developing a foundation for a framework that would permit the measurement of adequacy of response, the Board focused on the issue of responsibility: "Commanders have a responsibility to **make decisions, issue orders, and monitor the execution of assigned tasks.**" In this case, decisions, orders and execution were conducted within a particular context and were significantly affected by the unfolding crisis. The Board determined this context was akin to the notion of "Crisis Action Planning":

"Crisis Action Planning consists of initiating and developing plans in response to a current or developing crisis. It requires an expeditious co-ordination and approval. ..." ²⁴⁶

100. Taking into consideration that the UN was interposed between two belligerents, UN freedom of action was limited given the nature of combat operations. As such, the Board viewed the command responsibility – decisions, orders and execution of tasks that result from the exercise of command – as one of managing the risks that are associated with such a context. Accordingly, the Board determined that "principles" of risk management, as distinct from the risk management "procedures", were an appropriate tool to assess whether the decisions, orders and execution of tasks (which constituted the response) were adequate. These principles are:

- a. Accept No Unnecessary Risk. "An unnecessary risk is any risk that, if taken, will not contribute meaningfully to mission accomplishment."
- b. Make Risk Decisions at the Appropriate Level. "Anyone can make a risk decision; however, the appropriate level for risk decisions is the one that can make decisions to eliminate or minimize the threat, implement controls to reduce the risk, or accept the risk.";
- c. Accept Risk When Benefits Outweigh the Cost. "The process of weighing risks against opportunities and benefits helps to maximize mission

²⁴⁵ B-GG-005-004/AF-000, Canadian Forces Operations, Chapter 4 – Force Employment, Section 402, paragraph 2

²⁴⁶ B-GJ-005-500/FP-000, CF Operational Planning Process, Chapter 3 – Overview of Operational Planning, Section II, paragraph 3, and Exhibit 3

success. Balancing costs and benefits is a subjective process and must remain a commander's decision.”; and

- d. Anticipate and Manage Risk by Planning. “Integrate risk management into planning at all levels. Commanders must dedicate time and resources to apply risk management effectively in the planning process, where risks can be more readily assessed and managed.”²⁴⁷

101. As previously discussed, the Board interpreted “response” to mean the actions taken by the chain of command, and as such, analyzed those actions in terms of the inherent responsibilities of command. Therefore, this finding is supported by the analysis of the following facts:

- a. Accept No Unnecessary Risk. As discussed in the finding related to UN risk management procedures, the UN chain of command was very aware of the risks related to the crisis. The Board has found that risks were identified, mitigating strategies enacted, and that the risk was accepted in consideration of the value of the mission. There is no evidence to suggest that, at any point during the period leading up to or at the time of the incident, unnecessary risks were taken;
- b. Make Risk Decisions at the Appropriate Level. The UN chain of command is structured such that the authority to make operational and tactical level decisions rests with the Force Commander.²⁴⁸ Specifically regarding the withdrawal from UN installations, DPKO reinforced this authority in the code cable to Force Commander UNIFIL. The Board concluded that Force Commander UNIFIL and Chief of Staff UNTSO were empowered to make decisions regarding risk, and did so when appropriate.²⁴⁹ The Board assesses that the UN Headquarters decision to retain the authority for a complete Force withdrawal was appropriate given their level of situational awareness;
- c. Accept Risk When Benefits Outweigh the Cost. The UN chain of command clearly considered the issue of maintaining the UN presence in Lebanon. In this consideration, risks were addressed, and ultimately the benefits associated with the accomplishment of the mission were assessed to be greater than the risks to personnel; and
- d. Anticipate and Manage Risk by Planning. In general terms, there are clear procedures for managing risk to UN civilian personnel. Evident within the decisions to raise the security phase levels were the notions of anticipation

²⁴⁷ B-GJ-005-502/FP-000, Joint Doctrine Manual, Risk Management for CF Operations, Chapter 2, paragraph 202

²⁴⁸ See Annex CK – Comprehensive Review of the Whole Question of Peacekeeping Operations in All their Aspects, paragraphs 4-5

²⁴⁹ See Annex V – UN Code Cables, Appendix 8

and planning. Furthermore, as it pertains to military personnel, there were Standard Operating Procedures in place specifically regarding security and there was an established UN-IDF liaison network. These elements unmistakably indicate a degree of anticipation and planning.

102. Adequacy of Response. During the Board's deliberation regarding the adequacy of the UN response, consideration was given to the previous findings on relevant orders and direction, information available to the chain of command and risk management procedures. The Board viewed the test for adequacy of response as whether the chain of command applied the principles of risk management.

103. With the aforementioned findings in mind, the Board determined that the UN chain of command did not accept any unnecessary risk, made risk decisions at the appropriate level, weighed the risks against opportunities and benefits to maximize mission success, and had anticipated and managed some risks through previous planning; therefore, the UN response was adequate.

104. Finding – The adequacy of the CF response to the incident. The Board finds that the CF response to the incident was adequate.

105. Analysis – Residual Command Responsibility. Of particular significance, and in consideration of the unique command and control relationship between the UN and CF chains of command, the Board determined that there were only residual responsibilities associated with the exercise of command and control at the strategic, operational and tactical levels within the CF chain of command. Regardless of the CF command and control structure established for TFME, there are certain responsibilities inherent within each of the chains of command. The Board agreed with the commonly shared view that, as a result of Operational Control being given to the UN, the CF was left with only residual command responsibilities.

106. In an effort to determine these residual command responsibilities the Board examined the CF Operations doctrine manual. A lengthy discussion exists in the manual regarding Full Command, Operational Command and Operational Control, however, these definitions proved to be too general for the Board's purposes.²⁵⁰ The Board then proceeded to examine the doctrine related to Peace Support Operations, according to which the Canadian National Commander normally retains Operational Command and Administrative Control. Furthermore, it highlights that the Canadian Commander is often not in the operational command structure of the operation.²⁵¹ While these doctrinal excerpts support the notion that the CF chain of command only possesses residual command responsibilities, there is little indication as to what these include.

107. Additionally, the Board examined the CEFCON Commander's Directive, TFME. It states that Commander TFME has been delegated Operational Command and that

²⁵⁰ B-GG-005-004/AF-000, Canadian Forces Operations, Chapter 2, pages 1-4.

²⁵¹ B-GG-005-004/AF-000, Canadian Forces Operations, Chapter 10, pages 6-7 and B-GJ-005-307/FP-030, Joint Doctrine Manual, Peace Support Operations

Operational Control has been delegated to Chief of Staff UNTSO while the CDS retains Full Command.²⁵² As discussed in the finding related to the adequacy of the UN response, this command and control relationship establishes conditions such that the UN chain of command is better placed to make decisions that affect the operational employment of UNMOs, and that there are only residual responsibilities associated with the CF chain of command. Several key decision makers within CEFCON have described their views on the residual command responsibilities. The Board has considered these testimonies and concludes that the residual responsibilities resident within the CF chain of command are characterized as:²⁵³

- a. Ensuring that CF personnel are employed in a manner consistent with the approved mission mandate;
- b. Ensuring that CF personnel are not exposed to unnecessary risk; and
- c. Ensuring that CF personnel are administered in accordance with CF policies and procedures.

108. The analysis of the this finding is based on the following facts:

- a. Ensuring that CF personnel are employed in a manner consistent with the approved mission mandate. As established in the findings related to duty, military service, and the details of the mission, the tasks being conducted by Major Hess-Von Kruedener at the time of the incident were consistent with the expectations of service as an UNMO. There is no evidence to suggest that Major Hess-Von Kruedener was being employed in a manner that was contrary to the UNTSO or UNIFIL mandates;
- b. Ensuring that CF personnel are not exposed to unnecessary risk. As established in the finding related to the CF and UN procedures for managing and mitigating risk, the Board determined that the CF chain of command duly considered the UN assessment of risk and accepted the UN chain of command's decision regarding the UNMOs remaining on the Patrol Base; and
- c. Ensuring that CF personnel are administered in accordance with CF policies and procedures. In this particular case, analysis was limited to the administrative procedures associated with the identification and repatriation of Major Hess-Von Kruedener's mortal remains. The actions taken regarding the repatriation were in accordance with established CF policies and procedures.²⁵⁴

²⁵² See Annex BJ – CEFCON Commander's Directive, TFME, paragraphs 15 and 17

²⁵³ See Annex BH – Testimony from SJS Director General Plans, Brigadier-General A. Viens, pages 34-35, Annex BI – Testimony from CEFCON Chief of Staff Operations, Brigadier-General A. Deschamps, pages 26-30, and Annex AD – Testimony from CEFCON J3, Colonel S. Noonan, pages 23-24

²⁵⁴ See Annex CL – 3452-8 (J3 Intl 1-4), TFME Personnel Support Direction

109. Adequacy of Response. The Board viewed the test for adequacy of response as whether the chain of command addressed the responsibilities mentioned above. In this particular case, Major Hess-Von Kruedener was not employed in a manner contrary to the approved mandate. Furthermore, the CF chain of command ensured that Major Hess-Von Kruedener was not exposed to unnecessary risk, and that all appropriate administrative procedures and policies were followed. Therefore, the CF response was adequate.

110. Finding – Whether the incident was preventable. The Board finds that the incident was preventable.

111. Analysis. In order to develop a framework for analysis of this finding, the Board began by determining the constituent elements of the “incident”: the presence of the UNMOs at Patrol Base Khiam; and, the ordinance that was dropped on Patrol Base Khiam. More specifically, the Board viewed the issue of preventability from the perspective of removing one of these constituent elements. Remove either the ordinance or the UNMOs and there would not have been an incident. The Board viewed the presence of the UNMOs on Patrol Base Khiam as appropriate given the context; however, the Board did consider that there was the possibility to have averted the ordinance from being dropped on the Patrol Base. The finding regarding preventability is supported by the analysis of the following facts:

- a. Presence of the UNMOs at Patrol Base Khiam. At several points, DPKO was engaged regarding the general issue of retaining a UN presence within South Lebanon. There were a variety of reasons for the continued presence of UN personnel in South Lebanon, and the overarching concern was that without a UN presence “there would be no ability to observe...and...total freedom of action would be passed to the protagonists”.²⁵⁵ This view was balanced with an overt concern for the safety of UN personnel, and considering that it was assessed that there were no UN positions more or less safe than others, the decision was made to maintain the UNMO presence on the Patrol Bases where they could continue to observe and report. This consideration, when combined with the provision of bunkers that were engineered to withstand impacts from 155mm artillery, the coordination effectuated by the UN and IDF liaison networks, and the IDF reassurances that the UN would not be targeted, provides sufficient explanation as to why the UNMOs continued to occupy Patrol Base Khiam. Accepting this reasoning, the Board’s consideration of preventability shifted to the second element of the ordinance dropping on the Patrol Base;
- b. Ordinance dropping on the Patrol Base.

²⁵⁵ See Annex W – Notes of Meeting between UN BOI and Chief of Staff UNTSO

- c. Notwithstanding the above observations, the Board determined that another avenue of preventability was resident within the UN-IDF liaison network. The UN side of the liaison network was functioning in so far as a series of protests were lodged regarding the various incidents of "Firing Close" that Patrol Base Khiam experienced on 25 July 2006. More particularly, several individuals, including the OGL Liaison Officer, the UNIFIL Senior Liaison Officer, and the Force Commander himself protested the "Firing In" incident of 1829hrs. The IDF has acknowledged receipt of these protests. As such there is no indication that there were any failures in the UN side of the liaison network; and
- d. Concerning the IDF side of the liaison network, contact had been established with the Headquarters responsible for operations in the vicinity of Patrol Base Khiam. However, considering that on previous occasions the IDF had halted fires when protests were received, no indication has been offered as to why protests of this nature and severity did not result in the halting of fires. The ability of the IDF to halt fires on previous occasions, combined with the functioning of the UN side of the liaison network, and the ability of the IDF side of the liaison network to contact the implicated Headquarters indicates that there was sufficient time for appropriate information to have been transmitted to the appropriate IDF decision maker in order to halt the fires on Patrol Base Khiam. Unfortunately due to the lack of access to IDF personnel and the limited information contained within the IDF Non-Paper, the Board was unable to ascertain why the IDF side of the liaison network could not deliver the necessary action in this particular case. Consequently, the Board assesses that, had the IDF side of the liaison network been functioning effectively, the incident could have been prevented.

RECOMMENDATIONS

112. During the course of its deliberations, the Board was exposed to a variety of issues. These issues spanned a spectrum from those related to the UN to those related to the CF. As a result of these deliberations, the Board considered many potential areas for improvement, however, when considering recommendations, the Board was careful to ground them within the evidence available, and not to rely on speculation. Furthermore, the Board recognized that there might be numerous manners in which the various

²⁵⁶ See Annex H – IDF Non-Paper

recommendations could be implemented; therefore, the Board's focus was on the articulation of the WHY and WHAT, as opposed to the HOW.

113. Recommendations regarding policies, procedures and planning for CF command, control and communications for UN Military Observer missions:

- a. Recommendation 1 – The Board recommends that specific protocols be developed for the control and coordination of the information flow on . In its deliberations the Board was exposed to the Command View and the “E-Read” methodology. It is important to note that the Board fully understands and supports the development and use of a system such as this, and agrees that the foundations upon which is constructed are appropriate for its intended use. Notwithstanding this support, the Board contends that unlike previous systems that were based on the “push” and “pull” of information, the is a hybrid system and, in the Board's term, the notion of information “pooling” has been introduced. In such a system, individual initiative is a significant factor in the publication and retrieval of information. As such, the Board believes that in order to reduce the possibility of omission of posting, error in publication, information not being read by the appropriate individuals, or ignorance of what is available, protocols should be developed with a view to standardizing procedures related to the flow of information and generation of situational awareness.
- b. Recommendation 2 – The Board recommends that TFME develop and implement more robust procedures for the internal passage of information. The Board recognizes the diffuse nature of TFME and the challenges associated with such a structure. Regardless, the Board did see the opportunity to improve the mechanisms through which information is passed, and thus the development of situational awareness for all TF members. Specifically, the Board views the reliance on self-reporting and reporting by exception as insufficient, and asserts that there is scope to place additional rigour onto the reporting requirements from TF members.
- c. Recommendation 3 – The Board recommends that the procedures for the appointment of TF Commanders be rigorously applied. Understanding that exceptions do arise, the Board was however cognizant of the fact that the procedures for the selection and appointment of Commander TFME were abbreviated. The Board would simply like to reiterate the significance of the position of Task Force Commander and the need to reinforce the use of the existing mechanism.
- d. Recommendation 4 – The Board recommends that Commander TFME be positioned within UNTSO Headquarters. The ability of Commander TFME to generate situational awareness is contingent upon having access

to the requisite information; as such, placement within the central Headquarters would facilitate the ability to make informed decisions, and the passage of information to CEFCOM.

- e. Recommendation 5 – The Board recommends that the current Commander CEFCOM Directive for TFME be reviewed and revised. Cognizant of the diffuse nature of TFME and that the Commander TFME primary function, in the eyes of the UN, is as an UNMO with associated duties, the Board still considers that there is scope to review the current directive. This review should be conducted with a view to adjusting expectations with a focus on the residual command responsibilities highlighted in the findings above, and aligning them with the context within which TFME functions.
- f. Recommendation 6 – The Board recommends the development of procedures for the conduct of “Mission Analysis” at the operational level when there is a significant change in the operational environment. The Board is conscious of the division of responsibility between the strategic and operational levels, and is aware of recent efforts by the SJS to address the issue of strategic level mission reviews. At the operational level however, the Board considers that there is scope to develop and introduce procedures, particularly in the case of small and long established missions, that would facilitate decision making in the event of a crisis. Specifically, a “trigger(s)”, such as a significant change in mission parameters, could initiate the procedures. When applied, these procedures could be guided by the residual responsibilities articulated in the findings above, and incorporate the precepts of “risk management” as articulated within the Joint Doctrine Manual, Risk Management for CF Operations. While the Board recognizes that such issues are typically addressed through an implicit decision making process, the Board considers that the articulation in explicit terms of such a procedure could safeguard against the overlooking or misinterpretation of the residual command responsibilities inherent at the operational level, and improve the Commander’s ability to make an informed decision.

114. Recommendations regarding policies, procedures and planning for UN command, control and communications for UN Military Observer missions:

- a. Recommendation 7 – The Board recommends that the CF should encourage the UN to review the command and control structures within the Mission Area. Specifically, the Board notes that there is a cumbersome structure in place to manage command and control issues between UNTSO and UNIFIL. Furthermore, there appears to be a disconnect between the articulated command and control relationship and what actually transpires from a process perspective. While the Board did not have access to sufficient evidence to make a full finding/recommendation on this issue, it does however, believe that there

is certainly scope to conduct a review that could have as its goal to improve the efficiency and effectiveness of command and control structures in the Mission Area thus facilitating the command function of the various Heads of Mission.

- b. Recommendation 8 – The Board recommends that the CF seek clarification from the UN on the roles and responsibilities of “National Seniors” within the Mission Area. While the UN documentation associated with the position of National Senior indicates that there is recognition of its existence, there is little articulation with regards to specific roles and responsibilities. Furthermore, the Board recognizes that the CF and UN chains of command may be viewing the responsibilities associated with this function from two different perspectives. Clarifying these roles and responsibilities and harmonizing the two positions is important as this, at least at the tactical/operational level, is the direct interface between the UN and CF chains of command.
- c. Recommendation 9 – The Board recommends that the CF encourage the UN to issue “Guidelines” for all UN missions. During the course of the deliberations, the Board was exposed to “Guidelines” that have been produced for two of the more recent UN missions. The Board believes that there is value in the explicit articulation of roles, responsibilities, and expectations regarding the control, conduct and comportment of personnel assigned to UN missions.

115. Recommendations regarding CF command, control, and communications to provide for the safety of CF members participating in UNTSO:

- a. Recommendation 10 – The Board recommends that Commander TFME be issued with a secure means of communications. While not a factor in the outcome of this case, the Board is sensitive to the lack of secure means of communications between the Commander TFME and CEFCEM. Although there may have been little use of secure means in the past, this certainly does not indicate a lack of requirement. Specifically, in volatile regions it is difficult to predict when a crisis will begin, or how long it will last. The fluid nature of conflict creates a context whereby uncertainty is the norm. In such cases, regardless of how calm it may have been in the past, there is a requirement for secure means of communication in order to facilitate the exercise of command by the CF.
- b. Recommendation 11 – The Board recommends that internal communications means within TFME be investigated. The Board is conscious of the fact that there is a reliance on the country specific civilian infrastructure within the Mission Area and encourages exploration of redundant systems that could avoid such a reliance. The Board considers that there may be additional means of communications available that

would enhance the ability of Commander TFME, or other CF personnel for that matter, to establish communications with Task Force members.

116. Recommendations regarding UN command, control, and communications to provide for the safety of UNTSO personnel:

- a. Recommendation 12 – The Board recommends that the CF encourage the UN to examine the procedures to manage and mitigate risk for military personnel within the Mission Area. The Board is aware of the procedures in place for the management and mitigation of risk to civilian personnel in the Mission Area, and is impressed with the extent to which the UN Department of Safety and Security has articulated and applied these procedures. Additionally, the Board recognizes that risk management for military personnel is subsumed within the exercise of command; however, the Board, based on the limited evidence that was made available, believes that there may be scope to reinforce this implicit process through articulation in explicit terms.

117. Recommendations regarding prevention of a similar occurrence in the future:

- a. Recommendation 13 – The Board recommends that the CF encourage the UN and IDF to review and reinforce the existing liaison network. The Board was concerned with the lack of ability of the liaison network to influence the outcome of this incident. While not within the direct span of control of the CF, efforts should be made with both the UN and IDF to convey these concerns and to encourage the development of a relevant structure and associated procedures for the liaison network. Specifically regarding structure, issues such as infrastructure and placement of liaison officers are paramount. Specifically regarding process, recognizing the challenges of functioning within a multi-cultural and multi-lingual environment, issues such as the application of “pro forma” reports and the development of a sliding scale of protests must be addressed.

CONCLUSION

118. On 25 July 2006 four United Nations Military Observers lost their lives as a result of an aerial attack on their Patrol Base. During the course of its deliberations, the Board took particular care to examine the response to the incident from the perspective of command responsibilities. Regarding the UN chain of command, the Board commends the Force Commander and soldiers of UNIFIL for their courage in such demanding circumstances. Furthermore, the Board recognizes the tremendous efforts of the Chief of Staff and UNTSO personnel in support of the UN effort in South Lebanon. While certain matters have been commented upon in this report, the Board notes that at no point in its deliberations was there ever cause for concern on the fundamental issue of command of UN personnel in the Mission Area.

119. Regarding the CF chain of command, the Board notes that the primary concern was that related to Major Hess-Von Kruedener's safety and that this is to be applauded, and should not to be overlooked. While some comments in this report, if taken out of context, may appear to be critical, the Board was never in doubt of the intent or ability of any of the commanders or their staffs. Having said this, the Board affirms its position that there is an opportunity to improve. Specifically, this opportunity should be regarded as one arising from a fundamental shift in the command of CF operations from the previous DCDS structure to that of CEFCON.

120. In conclusion, the nature of the combat operations was unpredictable, and the interposition of the UNMOs between the two belligerent forces possessed inherent risks. These risks were known and balanced against the imperative of the mission mandate. Ultimately, Major Hess-Von Kruedener, along with his three colleagues, lost his life in the service of peace.

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Appendix 5– Code Cable, dated 16 July 2006
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Annex AF – OGL Current Operations Activity Log 242000 to 252300 July 2006

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Annex AS – Incident Management System Log Entries provided by CEFCON

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Annex AU – Emails Related to the Gathering and Release of Medical Information

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Annex AX – Commander's Update on the Current Conflict 06/06

Annex AY – Tasking Order OP JADE Repatriation of Remains

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Annex BI – Testimony from CEFCOM Chief of Staff Operations, Brigadier-General A. Deschamps

Annex BJ – CEFCOM Commander's Directive, TFME

Annex BK – Testimony from CEFCOM J3 – Regional Operations 3, Commander H. Henderson

Annex BL – Testimony from CDI Director Intelligence Operations, Colonel N. Thompson

Annex BM – Testimony from CEFCOM J3 – Regional Operations 3-5, Captain R. Washburn

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Appendix 4 – CEFCOM Weekly Operations Brief – 03 August 2006

Annex BP – TFME Joining Instructions/OP JADE – CC UNTSO

Annex BQ – Command and Control of Military Components in UN Peacekeeping Operations, DPKO October 2001

Annex BR – DPKO Organization and Responsibilities

Annex BS – DPKO Situation Centre Submission to BOI on Khiam Incident

Annex BT – Emails from PRMNY – TCC Meetings

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Annex CA – Testimony from CEFCON EA Deputy Commander, **Major D. Lay**

Annex CB – Testimony from ADM (Pol) Director of Peacekeeping Policy, Colonel M. Hanrahan

Annex CC – Command Directive for the Force Commander UNIFIL

Annex CD – Statement of DPKO Military Advisor,

Annex CE – OGL Standard Operating Procedures, Part 5 – Security

Annex CF – Details of Patrol Base Khiam Construction

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Annex CI – Testimony from CDI Middle East Analyst, **Mr D. Rheault**

Annex CJ – Testimony from CEFCOM Deputy Commander, Brigadier-General D.
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Annex CK – Comprehensive Review of the Whole Question of Peacekeeping Operations
in All their Aspects, A/49/681, 21 November 1994

Annex CL – 3452-8 (J3 Intl 1-4), TFME Personnel Support Direction, dated 06 October
2005

Annex CM – Consolidated Package of Email from Major Hess-Von Kruedener

Annex CN – Documents related to the UN BOI

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Annex CP – Examples of “Guidelines” for UN Peacekeeping Missions

Annex CQ – CEFCOM J3 9115, Significant Incident Report

Annex CR – CTV.CA publication of Major Hess-Von Kruedener’s Report from Lebanon

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Appendix 3 – Fax from CDA Tel Aviv, UN BOI Presentation
Appendix 4 – UHDR 5604, Support to CF BOI -- Analysis of Attack on PB
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Annex CT – DND/CF Press Release CEFCOM NR-06.013

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Annex CU – Letter of Condolence from the UN Secretary General

Annex CV – Handbook on UN Multidimensional Peacekeeping Operations

Annex CW – Reports of the UN General Assembly Special Committee on Peacekeeping Operations

Annex CX – Casualty Report and Casualty Notification

Annex CY – CANFORGEN 018/06 Establishment of the SJS

Annex CZ – CANFORGEN 019/07 CEFCON – Command and Control Authority

Annex DA – Email related to Cdn Decision not to Deploy UNMOs to Lebanon

Annex DB – UN Headquarters Press Releases and Daily Press Briefing

Annex DC – NDCC Incident Management System Log, 13 July to 04 August 2006

Annex DD – 5535-UNTSO (J1 Coord), Manning Directive – UNTSO, December 2004

Annex DE – UN Military Observers Handbook

Annex DF – UN Peacekeeping Training Manual

Annex DG – UN Guidelines for the Selection, Deployment, Rotation, Extension, Transfer, and Repatriation of Military Observers in UN Peacekeeping Operations

Annex DH – Misc Correspondence related to the BOI

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Enclosure 1 – UN BOI Report (Complete)

Enclosure 2 – Bound copies of Witness Testimony (x 14)