ANNEX I
DATED 16 DEC 11

MAJOR CRITICAL FINDINGS

Appendices:

1. **Finding 1**. Pre-operation border deconfliction was not accomplished.
2. **Finding 2**. Positive ID of all established Pakistani border posts was lacking, thus limiting precision in pre-mission planning and deconfliction.
3. **Finding 3**. Results of a previous operation against this same objective, combined with available target intelligence, resulted in the expectation of hostile action on the objective.
4. **Finding 4**. Machine gun and mortar fire against Coalition Forces and Afghan Commando forces from the border ridgeline was the catalyst for the engagement. The resulting aircraft fire was executed in self defense of the ground force.
5. **Finding 5**. Miscommunication and imprecise terminology between RC-E JOC and SOTF-E JOC resulted in a false understanding of there being no PAKMIL in the area immediately following the first engagement.
6. **Finding 6**. Lack of detailed and understood coordination and emergency deconfliction procedures resulted in misidentification of the engagement area to the PAKMIL LNO located in the NBCC who subsequently passed it to 11 Corps HQ, resulting in the 'confirmation' of no PAKMIL in the area reply.
7. **Finding 7**. Continued fire from the border ridgeline area exacerbated the engagement.
8. **Finding 8**. The LOAC was respected and the ROE were applied correctly and legally.
9. **Finding 9**. Coalition Forces did not cross the border, but one aircraft briefly orbited up to 2 NM into PAK airspace as required by their flight profile.
10. **Finding 10**. This operation supported the overarching ISAF Campaign Plan.

APPENDIX 1
TO ANNEX I
DATED 16 DEC 11

Finding 1. Pre operation border deconfliction was not accomplished

Deconfliction is a key component for the successful execution of any mission. Areas of operation are normally subdivided into smaller geographical areas (battlespace) facilitating span of control and are designated under a single higher headquarters. The battlespace owner oversees, and is responsible for, the coordination and deconfliction of all operations within his area of operations. He is responsible for the command and control (C2) of only those operations over which he exercises operational control (OPCON). For this operation C2 responsibility remained within the Combined Joint Special Operations Task Force (CJSOTF) chain of command.

The deconfliction process begins when the tasked operational unit develops their concept of operations (CONOP), complete with mission statement, scheme of maneuver, supported and supporting units, control measures and other associated amplifying information. The CONOP is then submitted through command channels for approval. Upon approval the CONOP is distributed among the echelons of command within the battlespace for final coordination and deconfliction. In the case of operations near the Afghan Pakistan border certain details of the operation are coordinated with the associated Border Control Center (BCC) and shared with the Afghanistan and Pakistan authorities. During execution the various responsible command elements monitor the operations to ensure support is available as the mission unfolds.

The Operation SAYAQA CONOP was never officially transmitted and coordinated with the Nawa BCC (NBCC). Several days prior to execution a copy of a CONOP was transmitted from RC-E Borders to the ISAF OIC at the NBCC. The ISAF OIC emailed RC-E borders to confirm what information was releasable to the PAKMIL LNO. This was the result of a 16 Aug 11 email from the RC-E Borders Director stating that no information should be transmitted without the approval of the RC-E Deputy Commanding General for Maneuver. No response to the email inquiry was received and thus advance coordination was not accomplished. A Releasable PAKMIL (RELPAK) CONOP slide was prepared by the CJSOTF intended for release upon helicopter infiltration but this was not received by the NBCC until after the incident.

It is important to note that both the 16 Aug 11 email and the development of limited RELPAK CONOP slides was due to the strong belief that previous operations had been compromised. In fact, an operation to the same objective on 5 Oct 11 had to be aborted on infiltration when the assault force came under RPG-fire.

APPENDIX 2
TO ANNEX I
DATED 16 DEC 11

Finding 2. **Positive ID of all established Pakistani border posts is lacking limiting precision of pre-mission planning and deconfliction.**

During CONOP development, information regarding the location of Pakistani border posts was assessed. Only information identifying "possible border posts" was identified and annotated on the CONOP slides. The location of these possible border posts was 2.5 miles to the NE and 1.1 miles to the SW of the intended area of operations. Fire received by the ground force came from a location between these two locations.

From discussions with the PAKMIL LNO to the NBCC, it can take quite some time to establish new border posts. The most recent chart depicting established border posts hanging on the NBCC wall was dated 15 Jun 11. According to ODRP there is some indication from the PAKMIL that the border posts in question were established within the last three months.

The CONOP provided to the aircrew for mission planning did not include the "possible border post" identification data and therefore there was no expectation on their part that this was a possibility. There is no understood standard for the configuration of a border post; however through interviews with the aircrew, based upon their experience, they would expect to see a more built-up and established area.

APPENDIX 3
TO ANNEX I
DATED 16 DEC 11

Finding 3. Results of a previous operation against this same objective combined with available target intelligence resulted in the expectation of hostile action on the objective

A similar shaping operation on the same objective was executed on 5 Oct 11. Upon infiltration of CF the helicopter assault force came under heavy RPG fire (four rounds) and had to abort the mission. The timing and precision of the hostile action led to the belief that pre-mission coordination had been leaked and the mission compromised (see finding #1). The pre-mission intelligence summary anticipated 25-50 insurgent fighters to include several high level insurgent leaders. It was anticipated that there could be stiff resistance in order to allow the high level insurgent leaders to escape. Post-mission exploitation validated the existence of a significant insurgent presence in the area.

This finding is significant in establishing the mindset of the forces going into the objective area and their response to hostile fire from multiple directions over a period of time.

APPENDIX 4
TO ANNEX I
DATED 16 DEC 11

Finding 4. Machine gun and mortar fire against Coalition Forces and Afghan Commando forces from the border ridgeline was the catalyst for the engagement. The resulting aircraft fire was executed in self-defense of the ground force

Ground force and aircrew testimony combined with video evidence, and Pakistan public admission, confirms that precipitating direct and accurate fire originated from the mountain ridgeline down onto the ground force element at 23:09 hrs, 85 minutes after the first helicopter infiltration landing. Weapons fire originated from two separate locations and included heavy machine gun and mortar fire. Various levels of fire intensity continued from the ridgeline until 00:35 hrs. However, sporadic fire continued throughout the night, which included an RPG attack against an AH-64 at 01:46 hrs.

As the fire originated from high on the mountain ridge down onto the ground force position the ground force team leader could not return fire directly. He first ordered a show of force, a low pass by a F-15 combined with aircraft flares. When the firing persisted he directed close air support in self-defense of his force. As the air-to-ground engagements progressed the ground force continued to receive fire from two distinct engagement areas as identified by muzzle flashes visible to his position and as relayed verbally by the aircrew. It is important to note that the terrain channels steeply downhill and progressively narrows channeling movement and incoming fire into a very narrow geographical area. The ground force had just split, as planned, into two elements in order to facilitate rapid clearing operations to gain control of the village. Fire progressively shifted from the supporting effort (SE1) onto the main effort (ME). The terrain does not offer much cover and concealment allowing the ground force to “hunker down”. There was no indication of PAKMIL in the area and requested confirmation of this belief was returned with “no PAKMIL”.

APPENDIX 5
TO ANNEX I
DATED 16 DEC 11

Finding 5. Miscommunication and imprecise terminology between RC-E JOC and SOTF-E JOC resulted in a false understanding of there being no PAKMIL in the area immediately following the first engagement

After receiving the first incoming fire from the ridgeline the ground force team leader directed a show of force be demonstrated and then requested clarification/confirmation that no PAKMIL were in the area from his higher headquarters (SOTF-E). SOTF-E requested confirmation from RC-E that no PAKMIL were in the area. RC-E responded with, “We’re not tracking any PAKMIL”. With the pressure of his team under fire, the SOTF-E commander understood this as confirmation and passed back to his ground force team leader that no PAKMIL were in the area. There was no closed loop coordination with the NBCC.

It is unclear how confirmation of PAKMIL in the area might have changed the first engagement as the ground forces continued to be engaged from the ridge, following the show of force.

APPENDIX 6
TO ANNEX I
DATED 16 DEC 11

Finding 6. Lack of detailed and understood coordination and emergency deconfliction procedures resulted in misidentification of the engagement area to the PAKMIL LNO located in the NBCC who subsequently passed to 11 Corps HQ, resulting in the 'confirmation' of no PAKMIL in the area reply

FRAGO 1206 to CJTF-101 OPORD 10-01 dated 261745ZFEB11 clearly delineates the roles and responsibilities of the RC-E staff elements, Battlespace Owners (BSO), and Border Coordination Centers. OPCON is exercised by RC-E with NATO TACON exercised by the BSO. As such, RC-E CJ3 Borders supervises the activities and operations of the BCCs, facilitates routine mil-to-mil engagements and facilitates communications with ANSF, PAKMIL Frontiers Corps, RC-E and the BSO. The BSO is responsible to inform the appropriate BCC of all incidents within the border security zone and coordinate routine information sharing. Importantly, they are responsible for incorporating communication with appropriate BCCs into their battle drills for cross border and near border operations and incidents. They are also responsible for coordinating any pre-planned operations within 72 hrs with the appropriate BCC and RC-E LNO to PAKMIL. The BCCs serve as the primary information conduit for all incidents and activities within the border security zone. The BCC supervising officer is responsible for revising/developing and implementing BCC standard operating procedures and providing a copy to the BSO, CJ3 Borders and the CJ33 Current operations.

For this mission the BSO staff did not forward a CONOP or RELPAK CONOP to the Nawa BCC as it was a SOTF-E operation and the forces did not belong to the BSO. The assumption was that SOTF-E had their own capability and would do so. SOTF-E, as per the FRAGO, correctly assumed it was a BSO responsibility. As per the interview with the ground force commander, his intent was to have the RELPAK CONOP released upon helicopter infiltration as there was a feeling that the previous mission had been compromised resulting in four RPG shots and mission abort. Most CONOP are hung on the RC-E CJ3 Borders Portal. SOTF CONOPs are not releasable due to security concerns. Regardless, the ISAF contingent inside the BCC was unaware of the mission.

Once there was indication from the PAKMIL LNO to RC-E that PAKMIL forces on the border were taking fire, there was confusion as to what information could be passed to the BCC. RC-E CJ3 Borders claims they passed the 5Ws (who, what, when, where, why) to the BCC. Presumably the associated reference grids were also passed. This conflicts with what the BCC remembers receiving what was a "generic call that PAKMIL forces were under fire". The BCC also received a call from the BSO with the grid reference but was told only to pass the general location to the PAKMIL (presumably for security purposes). While attempting to verbally talk the BCC's PAKMIL

LNO onto a geographical area depicted on the sole chart on the BCC wall, a 14km error was induced due to a differential between the Command Post Of the Future (CPOF) screen that the coalition operator used and the imprecise chart on the wall.

Note: *The PAKMIL LNO normally received LAT LONG coordinates to input into his FALCON view system thus deriving a much more accurate location to pass on to his HHQ for deconfliction.*

Note: *The coalition force composition in the BCC is manned by one Personnelist (OIC), two Communications NCOs, a Command Post NCO, and Security Forces NCO (First Sergeant), and a contractor that maintains the systems. None have tactical experience or extensive familiarity with tactical charts or geographic orientation.*

Note: *No battle drills have been conducted to exercise emergency procedures.*

Note: *NBCC does not have any written SOPs or procedures.*

APPENDIX 7
TO ANNEX I
DATED 16 DEC 11

Finding 7. Continued fire from the border ridgeline area exacerbated the engagement

From ground force team leader and aircrew testimony, as verified by limited video evidence, it is clear that direct and indirect fire from the area of the border ridgeline continued from 23:09 hrs until 00:35 hrs. The inherent right of self-defense exists and this right of self-defense applies to the aircrews to fire in support of the ground party. The inherent right of self-defense extends to a hostile act or demonstrated hostile intent. Hostile intent is further defined as the imminent use of force and is not restricted to the confines of immediate or instantaneous action. A commander must have an honest and reasonable belief that an attack against his forces or other designated personnel or property will occur unless the commander uses force to intervene.

It is important to note that in the mind of the ground force team leader and the aircrews, they were being attacked by an insurgent force as there was no evidence or direction that there were PAKMIL in the area. The continuous fire, following the show of force and the employment of lethal fires, served as further confirmation of this understanding. It was not until 01:04 hrs that word came down that the engaged force was identified as PAKMIL. No lethal fires were employed passed this time.

APPENDIX 8
TO ANNEX I
DATED 16 DEC 11

Finding 8. The LOAC was respected and the ROE were applied correctly and legally

The Internal Security Assistance Force (ISAF) Campaign and Operation Enduring Freedom (OEF) are different missions. ISAF's primary mission is focused on providing stability and support to the Government of the Islamic Republic of Afghanistan's reconstruction and development efforts while OEF is frequently a counter-terrorism effort. ISAF is conducting a Counter-Insurgency (COIN) Campaign aimed at security and stabilization. OEF supports ISAF objectives – including COIN missions – and also pursues counter-terrorism and detention operations. Accordingly, as a result of these operational and political goals (reflected often in national caveats also), the two missions apply different ROE. Both ROE are based on the LOAC.

All US Forces – including a small number of specific US Forces not operating under the Operational Control (OPCON) of ISAF – always follow the US definition of self-defense ROE, which is less restrictive than ISAF self-defense. US Forces under OPCON of ISAF follow ISAF ROE. Additionally, COMISAF has introduced a Tactical Directive aimed at reducing the use of air support in operations in order to reduce civilian or non-combatant injury or death as well as reducing damage to civilian infrastructure. However, nothing in this Directive is intended to limit the right to self-defense. The forces involved in Operation SAYAQA on the night of 25-26 November 2011 applied the correct ROE appropriately and legally.

LOAC principles of distinction, necessity, and proportionality were central to the decisions made on the night of Operation SAYAQA. Pattern of life in the target area was taken into consideration as was the potential for collateral damage by qualified and experienced personnel at all the right levels and locations. Use of force was exercised correctly against what the troops in contact believed to be opposing forces – from whom they were taking effective fire. Use of force, beginning with a show of force and escalating in relation to the perception to the imminent threat and danger posed to Coalition Forces was exercised appropriately. In this situation, deadly force was applied in self-defense by the on-scene commander against legitimate dynamic targets that emerged during the operation in a manner consistent with the LOAC.

APPENDIX 9
TO ANNEX I
DATED 16 DEC 11

Finding 9. Coalition Forces did not cross the border, but one aircraft briefly orbited up to 2 NM into PAK airspace as required by their flight profile

During operation SAYAQA, no ISAF, USFOR-A, or Afghan National Army ground forces crossed the internationally recognized border. Nor did these same forces cross any portion of any disputed border or fire across any borders – recognized or otherwise. Personnel engaged within the target areas were located in the immediate vicinity of the internationally recognized border as well as on the Afghan side of the internationally recognized border.

During Operation SAYAQA, a single fixed-wing US aircraft (AC-130), operating under OEF ROE, did cross into Pakistani airspace, as required by their flight profile, in the course of prosecuting their mission, *[remainder of this sentence is classified SECRET and is removed for reasons of Information Security, FOIA (b)(1)].*

APPENDIX 10
TO ANNEX I
DATED 16 DEC 11

Finding 10. This operation supported the overarching ISAF Campaign Plan.

The operation was a shaping operation designed to neutralize the abilities of Insurgents to operate freely in the Maya Valley in order to implement the Village Stabilization Operations (VSO) program focused on governance and development and ultimately bringing stability to Maya Valley and Maya Village. The operation was intended to enhance the security of main Coalition Force bases and reduce the improvised explosive device (IED) threat along Main Supply Routes, while improving the ability of Afghan Local Police (ALP) to protect the population of Maya Village and thereby positively affecting the Villagers' perception of local government authorities.

This operation was conducted within the battle space of RC-E. The forces in this operation, with the exception of the Afghan Commando Company conducting the ground operation, were American – the majority of whom were operating under an OEF mandate and OEF ROE. However, the chain of command – from COM IJC, to DCOS JOPS, to COM RC-E to COM CJFSOC-A to the ODA Commander partnering the ANA Commando Ground Force portion of the operation clearly perceived this operation as an ISAF operation conducted in support of the ISAF Campaign Plan. COM IJC in particular likened the distinction to that of national caveats that affect his planning and conduct of operations. The Concept of Operations (CONOP) for executing the operation was processed according to ISAF direction along the ISAF chain of command – as well as the USFOR-A chain of command. The chain of command involved in this operation – from top to bottom – are generally unanimous in declaring that COMISAF's Tactical Directive was known to them and that the operation was conducted accordingly. Forces declared to both OEF and ISAF were employed – with both types of assets utilizing the associated ROE correctly and in a legal manner. The CONOP was signed and approved by RC-E HQ DCOS JOPS, although he signed in his capacity within the USFOR-A chain of command on the advice of his legal advisor. Finally, air and aviation assets that ultimately supported the Ground Forces with fire support during the operation were ISAF forces who responded with lethal force in self-defence of the forces on the ground.

In this operation, all participants adhered to the ISAF/ USFOR-A Tactical Directive, orders and SOPs. However, it cannot be clearly established that it was technically an ISAF operation. What can be established is that confusion persists with respect to the co-existence of the two mandates – OEF and ISAF – that ultimately leads to different ROE and potentially a different focus for the forces involved in the operation.